United Nations A/71/291

General Assembly

Distr.: General
4 August 2016

Original: English

Seventy-first session
Item 69 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Human rights and transnational corporations and other business enterprises

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, submitted pursuant to Human Rights Council resolutions 17/4 and 26/22.

* A/71/150.

16-13514 (E) 260816

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Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Summary

In the present report, the Working Group on the issue of human rights and transnational corporations and other business enterprises looks at the human rights impacts of agro-industrial operations, especially with respect to the production of palm oil and sugarcane, on indigenous peoples and local communities. It examines the duties and responsibilities, under the Guiding Principles on Business and Human Rights, of host and home Governments and business enterprises, including financial institutions and traders, in preventing, mitigating and addressing these impacts. It also offers reflections on issues of particular importance, such as transparency, leverage, meaningful consultation, multi-stakeholder initiatives and access to remedy.

The Working Group makes recommendations to States, business enterprises, multi-stakeholder initiatives and industry associations, civil society and international organizations on transforming current practices in order to benefit communities affected by agro-industrial operations.

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Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

I. Introduction

A. Context, aims and focus of the report

1. In the present report, the United Nations Working Group on the issue of human rights and transnational corporations and other business enterprises looks at the human rights impacts of agro-industrial operations on indigenous peoples and local communities. It examines the roles, duties and responsibilities under the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (Guiding Principles) (see A/HRC/17/31) of Governments, business enterprises and other stakeholders in preventing, mitigating and addressing these impacts. The aim of the report is to contribute to existing discussions and commitments on responsible agriculture and sourcing and to the forthcoming annual Forum on Business and Human Rights, the overarching theme of which is leadership and leverage.[1] It also provides follow-up to the report of the Working Group on business-related impacts on indigenous peoples (A/68/279).

2. Governments sell, lease, or otherwise grant, domestic and foreign business enterprises access to land and forest for agricultural operations, often resulting in major impacts on the communities that live on, cultivate or use those very lands and forests.[2] Agriculture-driven land conversion is also a key driver of deforestation, in particular of tropical forests and peatlands.[3] It is difficult to obtain precise data on the number and scale of land acquisitions worldwide. One global database indicates that, since 2000, over 1,200 "land deals" have been contracted.[4] The real figure is likely to be higher. The report uses the term "land acquisitions" to encompass all means through which land is obtained by a company for intensive crop production.

3. The Working Group has chosen to focus its discussion on agro-industrial operations with reference to two commodities, namely, palm oil and sugarcane, and on the impacts related to their production at the country level. Palm oil and sugarcane are among the agricultural commodities with the largest land footprint and have similar impacts on the human rights of communities surrounding or using land acquired by plantations and mills.[5]

4. Both sugar and palm oil are low-cost, generic products (compared with cocoa or coffee) found in many consumer products, including processed foods, pharmaceutical products, oleo-chemical products and biofuels. Palm oil is the

[1] Information on the forum is available from www.ohchr.org/EN/Issues/Business/Forum/Pages/2016ForumBHR.aspx.

[2] World Bank, "The practice of responsible investment principles in larger-scale agricultural investments: implications for corporate performance and impact on local communities", Agriculture and Environmental Services Discussion Paper 08 (Washington, D.C., 2014), p. xv.

[3] H.J. Geist and E.F. Lambin, "Proximate causes and underlying driving forces of tropical deforestation", *BioScience*, vol. 52, No. 2 (2002), pp. 143-150.

[4] See www.landmatrix.org.

[5] Oxfam, "Nothing sweet about it: how sugar fuels land grabs", Oxfam media briefing, June 2013.

largest consumed vegetable oil worldwide. Palm oil and sugar production have grown significantly and are likely to continue to do so in the future.[6]

5. The production and growth markets are primarily along or near the tropical belt, in Africa, Latin America and South-East Asia. Oil palm plantations cover nearly 18 million hectares of land, with Indonesia and Malaysia producing over 80 per cent of global palm oil.[7] Sugar is produced in 120 countries, around 80 per cent of which comes from sugarcane (the rest comes from beetroot), grown primarily in Brazil, China and India.[8]

6. Focusing on these two commodities helps to illustrate the salient human rights issues affecting local communities in countries of production, and the roles of all stakeholders in preventing and addressing these impacts. The present report does not, however, offer an exhaustive analysis of the palm oil and sugarcane sectors, and the Working Group acknowledges that these sectors also have distinct economic, financial, environmental and social characteristics.

B. Human rights impacts related to agro-industrial operations

7. In the present report, the Working Group addresses the adverse impacts on "local communities", understood in a broad sense to refer to individuals or groups who are affected by palm oil and sugarcane operations. They include indigenous, tribal and forest-based peoples, traditional hunter-gatherers and fisherfolk, and small landholders. The Working Group examines rights and responsibilities in relation to all types of communities, while clarifying entitlements and duties specific to indigenous peoples.

8. Relevant international human rights instruments and guidelines include the International Covenant on Economic, Social and Cultural Rights, which recognizes everyone's right to an adequate standard of living, the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, and the 2012 Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (Voluntary Guidelines on Land Tenure). They affirm the fundamental link between the right to food and access to secure tenure (see A/65/281).

9. The United Nations Declaration on the Rights of Indigenous Peoples and the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), among others, specifically recognize the rights of indigenous peoples, in particular their right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as their right to free, prior and informed consent (see A/68/279 and section IV.B below).

[6] See www.strategyr.com/MarketResearch/Palm_Oil_Market_Trends.asp and www.statista.com/statistics/451381/global-sugar-production-forecast/.

[7] Alan Rival and Patrice Levang, *Palms of Controversies: Oil Palm and Development Challenges* (Bogor, Indonesia, Centre for International Forestry Research, 2014) pp. 9-11.

[8] See www.sucden.com/statistics/1_world-sugar-production.

10. Countless cases highlight adverse impacts resulting from agro-industrial operations, including oil palm and sugarcane plantations.[9] Land acquisitions routinely take place without regard for the land and tenure rights of indigenous and non-indigenous communities, and in particular the communal basis for customary land rights, leading to loss of land and property, involuntary resettlement and forced eviction, and reduced access to land used for hunting, gathering or grazing. Land acquisitions also take place with little consultation with potentially affected communities, and impact assessments are often conducted after land leases/contracts are signed. The lack of adequate consultation with communities has also resulted in the destruction of sites of religious, spiritual and cultural significance. Deforestation and loss of land have led to increased food insecurity, malnutrition and mental and physical health issues among communities. As a result, land conflicts have proliferated.

11. Evidence suggests that affected communities rarely obtain effective remedy, with judicial remedies being seen as particularly ineffective and unaccountable. The criminalization of affected community members and human rights defenders continues to mar efforts towards access to justice, in the context of widespread intimidation, harassment and killings of community members and human rights defenders in relation to land acquisitions. Labour rights are also an issue at plantations and mills. Documented cases include child and forced labour, precarious working conditions, health and safety issues, and limitations on freedom of association and collective bargaining.

12. In the following sections, the Working Group discusses the duties and responsibilities of host and home States and of businesses, including financial institutions and traders, in addressing these adverse impacts. It also discusses specific themes of particular relevance and concludes by providing recommendations to a range of stakeholders. The Working Group highlights elements specific to land and tenure rights, as well as the right to consultation and respect for free, prior and informed consent. This in no way implies that other issues such as labour rights are less significant, but the Working Group acknowledges that other entities, notably ILO,[10] are focusing on these issues.

II. Duties of States

13. Under the Guiding Principles, States have the duty to provide protection against human rights abuses perpetrated by business enterprises within their territory and/or under their jurisdiction (Guiding Principle 1). States should consider the full range of measures at their disposal, namely, "a smart mix of measures — national and international, mandatory and voluntary — to foster business respect for human rights" (commentary to Guiding Principle 3).

[9] Cases and complaints of adverse impacts can be found in reports and observations by United Nations special procedures and treaty bodies posted on the OHCHR website (see http://ohchr.org and http://uhri.ohchr.org/en) and on civil society organization websites (e.g., https://business-humanrights.org/en); See also Marcus Colchester and Sophie Chao, eds., *Conflict or Consent? the Palm Oil Sector at a Crossroads* (FPP, Sawit Watch and TUK Indonesia, 2013); and Jodie Thorpe, *Sugar Rush: Land rights and the Supply Chains of the Biggest Food and Beverage Companies* (Oxford, Oxfam International, 2013).

[10] ILO, *Report IV: Decent Work in Global Supply Chains* (Geneva, International Labour Office, 2016).

14. In section II of the present report, the Working Group discusses host States (the operating country) and home States (where a company is incorporated or has its headquarters) separately. Some States might be both home and host States. It also discusses international investment agreements, which are relevant to both home and host States.

A. Host States

1. An environment conducive to respect by business for human rights

15. At the outset it is important to note that State obligations with regard to local communities extend well beyond their duty to protect. Governments have a duty to respect, protect and promote the rights of indigenous and non-indigenous individuals and communities under international human rights law. The manner in which States discharge all of their obligations has an impact on the overall environment in which businesses operate. As stressed in Guiding Principle 3, there is often a failure in State practice to enforce existing laws and policies that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and States should review whether such laws and policies provide an environment conducive to respect by business for human rights. Greater clarity in the laws and policies governing access to land, including entitlements in relation to ownership or use of land, is often necessary to protect both rights-holders and business enterprises.

16. In practice, the protection of indigenous peoples' rights starts with their recognition in national law, which has been provided by a number of States However, there are many other States that have failed to recognize their presence. Not only is the legal framework pertaining to their rights and land-related rights overall not applied, it is often purposely ignored by the very government authorities in charge of enforcing it. The widespread corruption that mars land acquisitions and contracts is a compounding factor. Recommendations have been made to address this underlying cause of many human rights impacts.[11]

17. Another issue concerns inconsistencies between laws protecting indigenous peoples and tenure rights, on the one hand, and national regulations supporting land acquisitions and land markets, on the other. National legislation and sector-specific regulations on land acquisitions should be reviewed to ensure legal coherence and compliance with the duty to protect indigenous peoples and tenure rights. National laws and policies, as well as land reform, registration and titling processes, should recognize and protect the diversity of tenure rights (see A/HRC/13/33/Add.2 and A/HRC/22/46). Laws should also clearly state the conditions under which expropriation for public purpose and evictions are allowed.[12]

18. In addition, in the light of increased attacks against land and environmental rights defenders, the Working Group stresses that protecting human rights defenders

[11] See Olivier De Schutter, International Corporate Accountability Roundtable and Global Witness, "Tainted lands: corruption in large-scale land deals, 2016" (forthcoming); Oxfam, "Poor governance, good business: how land investors target countries with weak governance", media briefing, Ref 03/2013, 7 February 2013; and Voluntary Guidelines on Land Tenure (para. 6.9).

[12] See Committee on Economic, Social and Cultural Rights, general comment No. 4 on forced eviction; report of the Special Rapporteur on the right to food (A/HRC/13/33/Add.2); Voluntary Guidelines on Land Tenure (para. 16.1).

is a core part of the State's duty to protect. In its recent resolution 31/32, the Human Rights Council recognized the important and legitimate role of individuals, groups and organs of society that are defending human rights in identifying and raising awareness of human rights impacts, including in relation to environmental, land and development issues.[13]

19. Besides regulating the process of land acquisition and contracts, Governments could adopt measures to regulate business operations and sugarcane/palm oil production, and include requirements related to environmental and social sustainability. The requirements could take the form of national mandatory certification schemes aligned with human rights standards and those of relevant multi-stakeholder initiatives. The Government of Indonesia, for instance, has taken several initiatives, such as recent moratoriums on peat development and on the expansion of palm oil licenses, and the formation of a peat restoration agency,[14] in addition to having a national mandatory certification scheme (the Indonesian Sustainable Palm Oil Standard).[15] The Indonesian province of Central Kalimantan also adopted Provincial Regulation 5/2011 on Sustainable Plantations, which outlines requirements pertinent to the development of community plantations through community involvement.[16]

2. State-investor contracts

20. Land acquisitions are frequently concluded with a foreign investor (often in partnership with a domestic partner), in the form of a "State-investor contract". Contract negotiations are often affected by imbalances in negotiating capacity between investors and Governments, to the detriment of the protection of rights guaranteed in national law, while there may also be alignment of interests between the Government and an investor to the detriment of local communities.

21. The former Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises noted in his report (A/HRC/17/31/Add.3) that the negotiation process between a host State and a business investor offered a unique opportunity to identify, avoid and mitigate human rights risks. The Special Representative proposed a set of principles for responsible contracts, which are contained in the annex to the report,[17] to help States and business investors to integrate the management of human rights risks into State-investor contract negotiations. A key principle (principle 3) is that the laws, regulations and standards governing the executing of the project should facilitate the prevention, mitigation and remedy of any negative human rights impact throughout the life cycle of the project. This should include the rights of indigenous peoples and land-related rights (see A/68/279).

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[13] See also Voluntary Guidelines on Land Tenure (para. 4.8); and A/71/281.

[14] See www.palmoilpledge.id/en/2016/07/ipop-signatories-support-government-of-indonesias-efforts-to-transform-palm-oil-sector-towards-sustainability.

[15] However, the scheme focuses mostly on compliance with national law. See www.sustainablepalmoil.org/wp-content/uploads/sites/2/2015/09/Efeca_PO-Standards-Comparison.pdf.

[16] See http://earthinnovation.org/wp-content/uploads/2014/09/kalimantan_roadmap_english.pdf.

[17] The annex is entitled "Principles for responsible contracts: integrating the management of human rights risks into State-investor contract negotiations: guidance for negotiators".

22. Overall, adequate policy space to meet the State's human rights obligations should be maintained when pursuing investment contracts (Guiding Principle 9). This is relevant to stabilization causes, and State-investor contracts should not offer protections for investors from future changes in the law that could potentially interfere with the State's efforts to meet its human rights obligations.[18] In addition, the Voluntary Guidelines on Land Tenure (para. 12.10) provide that when investments involving large-scale transactions of tenure rights are being considered, States should strive to make provisions for different parties to conduct prior independent assessments on the potential impacts that those investments could have on tenure rights and food security. The Special Rapporteur on the right to food makes similar recommendations his "Minimum human rights principles applicable to large-scale land acquisitions or leases".[19]

23. Consultations with potentially affected communities and individuals, which meet international standards, and respect for free, prior and informed consent, are key aspects of contract negotiations (see section IV.B below).[20]

B. Home States

1. Setting clear expectations for business enterprises investing in or sourcing from third countries

24. In accordance with Guiding Principle 2 States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations. This includes operations abroad.

25. The Guiding Principles recognize that the understanding of extraterritorial obligations of home States with respect to regulating the human rights impacts of business enterprises domiciled in their territory and/or jurisdiction when operating abroad is evolving. In line with commentary by United Nations human rights treaty bodies, the Working Group considers that States should take steps to prevent human rights abuse abroad by business enterprises that are domiciled in their territory and/or jurisdiction.[21]

26. States should set out clearly the expectation that businesses operating in or sourcing from third countries in sectors where human rights risks are significant, exercise commensurate human rights due diligence. In this regard, palm oil and sugarcane may be considered as "high risk sectors". In a recent initiative, the Governments of Denmark, France, Germany, the Netherlands and the United Kingdom of Great Britain and Northern Ireland encouraged European companies

[18] Principles for responsible contracts (principle 4).

[19] See A/HRC/13/33/Add.2, annex. See also "Guide to implementing the Guiding Principles on Business and Human Rights in investment policymaking", prepared as part of the Investment and Human Rights Project of the London School of Economics and Political Science, available from http://blogs.lse.ac.uk/investment-and-human-rights/files/2016/04/LSE_UNGPs_Guide_en.pdf.

[20] Principles for responsible contracts (principle 7).

[21] See, for example, statement of the Committee on Economic, Social and Cultural Rights on the obligations of States parties regarding the corporate sector and economic, social and cultural rights (E/C.12/2011/1); Committee on the Rights of the Child, general comment No. 16 on State obligations regarding the impact of the business sector on children's rights; and CERD/C/CAN/CO/18 and CERD/C/USA/CO/6.

involved in the palm oil global supply chain to implement the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises and the Food and Agriculture Organization of the United Nations (FAO)-OECD Guidance for Responsible Agricultural Supply Chains.[22]

27. Reporting requirements for business enterprises on how they address human rights risks is of particular relevance for high-risk sectors, and supply chain transparency for sugarcane and palm oil would be an important step towards addressing adverse impacts. This can entail a requirement that the "parent" enterprise report on the global operations of the entire enterprise, including on their human rights risks and how they are being addressed. An example of such a requirement can be found in the United States Department of State "Burma reporting requirements for responsible investment", which includes land acquisitions.[23]

2. Providing guidance to and assisting business

28. The expectations of home States with regard to business conduct abroad need to be accompanied by effective guidance on how to respect human rights. The Government of the Netherlands, for instance, initiated and is facilitating the development of "sector covenants on international corporate responsibility risks" (including agriculture and banking), in collaboration with employer associations, trade unions and civil society organizations.[24]

29. Government agencies that support and promote investment in third countries, development agencies and diplomatic missions also have a role to play to alert businesses to particular issues related to land distribution and management or to the vulnerability of particular groups such as indigenous peoples or human rights defenders.[25] For instance, CDC (United Kingdom) and DEG (Germany) recently issued a guidance note on managing legacy land issues in agro-industrial investments.[26]

30. As the private sector's contribution to international development assistance increases, the relevance of the Guiding Principles in this context should be more apparent than ever. A number of development agencies have begun referencing the Guiding Principles as a benchmark for the private sector's contribution to development projects. Specific to palm oil and sugarcane, examples include support provided to local communities to engage with authorities and business; the

[22] Amsterdam declaration in support of a fully sustainable palm oil supply chain by 2020, available from www.euandgvc.nl/documents/publications/2015/december/7/declarations-palm-oil.

[23] See www.humanrights.gov/u.s.-governmentapproach-on-business-and-human-rights.

[24] See www.government.nl/latest/news/2016/07/04/ploumen-congratulates-textile-agreement-signatories.

[25] See United Kingdom, *Good Business: Implementing the United Nations Guiding Principles on Business and Human Rights – updated May 2016* (London, 2016), available from www.gov.uk/government/publications/bhr-action-plan.

[26] Available from www.cdcgroup.com/Media/News/News-CDC-and-DEG-produce-guidance-on-managing-legacy-land-issues/.

formulation of national guidelines; and support to business initiatives on sustainable palm oil.[27]

C. International investment agreements and arbitration

31. Over 3,000 international investment agreements (sometimes called "investment treaties"), concluded between two or more States, offer guarantees to investors to protect their investments against adverse State conduct, through broad standards of protection and direct access to investment arbitration. There is increased recognition of the human rights risks associated with such agreements and arbitration.[28]

32. A recent study shows that the majority of farmland deals concluded in low- and middle-income countries since 2000 are protected by at least one investment agreement.[29] By protecting the landholdings of investors, international investment agreements can have a detrimental impact on the legitimate land claims of indigenous peoples and small-scale farmers because indigenous peoples and farmers do not have similar entitlements to remedy, and there are competing interests between protecting the rights of investors and the rights of affected stakeholders, with a clear substantive and procedural advantage to foreign investors (see A/HRC/33/42).[30]

33. All States have a responsibility and role to play in ensuring that international investment frameworks and agreements support rather than undermine human rights. It is also a matter of policy coherence (see Guiding Principles 8 and 9). A key measure would be for States to integrate human rights considerations (including respect for land and tenure rights) when they conclude international investment agreements and in investment policymaking more broadly.[31]

III. Business enterprises

A. Corporate responsibility to respect human rights

34. The corporate responsibility to respect human rights applies to all business enterprises and in relation to all human rights. In section III of the present report,

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[27] See, for example, Norwegian Agency for Development Cooperation, 2014 Results Report: Human Rights and Democracy (Oslo, 2014), available from www.norad.no/globalassets/publikasjoner-2015-/norads-results-report-2014---human-rights-and-democracy.pdf, p. 16; and www.sida.se/globalassets/global/about-sida/private-sector---collected-info.pdf; see also www.palmoilpledge.id/en/2015/09/ipop-and-usaid-signed-collective-agreement-to-establish-green-economy-and-protect-biodiversity-in-indonesia.

[28] See, for example, A/70/301 and HRC/33/42, A/HRC/30/44, A/70/285 and Corr. 1 and A/HRC/33/40; E/C.12/FRA/CO/4 (2016); and "Guide to implementing the Guiding Principles" (see footnote 19 above).

[29] Lorenzo Cotula and Thierry Berger, *Land Deals and Investment Treaties: Visualising the Interface* (London, International Institute for Environment and Development, 2015).

[30] See also "Guide to implementing the Guiding Principles" (footnote 19 above).

[31] See United Nations Conference on Trade and Development (UNCTAD), Investment Policy Framework for Sustainable Development, 2015; 2015 United Nations Convention on Transparency in Treaty-based Investor-State Arbitration; Voluntary Guidelines on Land Tenure (para. 12.15).

the Working Group focuses on the different ways in which businesses across the supply chains of palm oil and sugarcane can be involved in human rights abuses and what actions they are expected to take.

35. In principle, any business, wherever it is in the supply chain, can be involved with human rights abuses through causing, contributing to, or being directly linked to them as a result of its business relationships with other parties. Business relationships are relationships that are formed with business partners, entities in supply chains and any other non-State or State entity directly linked to business operations, products or services (Guiding Principle 13).

36. Business enterprises involved in the supply chain of palm oil and sugarcane are diverse. At the upstream end are growers and producers owning or managing farms and mills — the agro-industrial businesses.[32] They acquire land from Governments or individuals and are the first point of contact with communities and central and local authorities. Some businesses with integrated business models are involved in the full spectrum of the palm oil (and, to a lesser extent, sugarcane) value chain, or a significant part of it, and thus play many roles (acquiring land, cultivation, processing and production, merchandising and trading of sugarcane and palm oil), all of which could lead them to be involved in human rights abuses. Global consumer good companies and retailers occupy a more narrow space at the end of the value chain but may still be involved in human rights abuse, as might financial institutions and traders (see sections IV.D and IV.E below).

37. The way to know and show that an enterprise meets its responsibility to respect human rights is to adopt relevant policies and processes, including with respect to remediation (see section IV. E below), and to provide credible evidence of their effective outcomes, which is discussed in the sections below.

B. Policy commitments

38. According to Guiding Principle 16, business enterprises should express their commitment to respecting human rights through a statement of policy. For businesses operating in and sourcing from the sugarcane and palm oil sectors, such a policy should include commitments to respecting the legitimate land and tenure rights of communities, including those held in customary and communal fashion, and their right to free, prior and informed consent (see also section IV.B below).[33] Such commitments would reflect the fact that in palm oil and sugarcane, as in other agro-industrial sectors, land and relations with communities are salient human rights issues. The policy should be informed by relevant internal and/or external expertise, including experts on indigenous peoples and land.

39. Quite a few growers, producers and consumer goods companies in the sugarcane and palm oil supply chains have committed to respecting land and tenure rights, and indigenous peoples' rights, including the right to free, prior and informed

[32] There are also many small-holders growing sugarcane or oil palm. Because they are not linked to land acquisitions on the scale discussed in the present report and their impacts on human rights are different, the Working Group does not discuss them here.

[33] See Voluntary Guidelines on Land Tenure and the model enterprise policy suggested in the OECD-FAO Guidance for Responsible Agricultural Supply Chains (2016), available from www.oecd.org/daf/inv/investment-policy/rbc-agriculture-supply-chains.htm.

consent, in various policies.[34] These commitments are often made with reference to the International Finance Corporation Performance Standards or the Voluntary Guidelines on Land Tenure. Some have in addition adopted an explicit zero-tolerance policy for land grabs, a key demand of Oxfam's campaign Behind the Brands.[35] In the light of increased attacks against land and environmental rights defenders, the Working Group also encourages agro-industrial companies to follow the lead of companies that have articulated a policy on human rights defenders.[36]

40. Under Guiding Principle 16, respect for human rights must be embedded through in the business enterprise. This includes ensuring that policy commitments are reflected in operational policies and procedures and stipulating the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services.[37]

41. Building the capacity of company staff, suppliers and business partners is key to ensuring that commitments are anchored in practice and that due diligence is effective. Several companies have capacity-building programmes in place that specifically target suppliers. Such programmes should include raising awareness of the relevant human rights of affected communities, including indigenous peoples' rights.

C. Human rights due diligence

42. In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence (Guiding Principle 17). The process comprises four steps: (a) assessing actual and potential human rights impacts; (b) integrating and acting upon the findings; (c) tracking responses; and (d) communicating how impacts are addressed.

1. Overall considerations

43. The commentary to Guiding Principle 17 indicates that where business enterprises have large numbers of entities in their value chain, business enterprises should identify general areas where the risk of adverse human rights impacts is most significant and prioritize these for human rights due diligence.

44. The severity of human rights risks should be the most important factor in prioritizing due diligence and determining the scale and complexity of the processes the enterprise needs to have in place.[38] Companies operating in or sourcing from the sugarcane and palm oil sectors should assume that risks related to land acquisitions

[34] See, for example, the commitments of the Interlaken Group, available from www.interlakengroup.org/annex/company-commitments.

[35] See www.oxfam.org/en/campaigns/behind-brands.

[36] See Institute for Human Rights and Business, Front Line Defenders, Civil Rights Defenders, "Human rights defenders and business: searching for common ground", Occasional Paper Series, Paper Number 4 (2015).

[37] For examples of commitments made, see www.unilever.com/Images/unilever-palm-oil-policy-2016_tcm244-479933_en.pdf; and www.nestle.com/csv/rural-development-responsible-sourcing/responsible-sourcing/land-rights.

[38] Office of the United Nations High Commissioner for Human Rights (OHCHR), "The corporate responsibility to respect human rights: an interpretative guide", 2012, p. 12.

are severe, unless proven otherwise, and should be one of the issues to prioritize for due diligence. In fact, loss of land has dramatic impacts on the livelihoods of individuals and communities, and often land acquisitions are accompanied by violence, further exacerbating the harm.

45. Companies assessing (or wishing to prioritize the assessment of) the particular risks of an operating/sourcing context should, at a minimum, consider the following factors:[39] weak governance and lack of transparency/perceived corruption level; weak land governance and unclear land and tenure rights; the presence and scale of land conflicts between communities and companies/authorities; the level of democratic space for communities and human rights defenders to voice concerns; and the existence of complaints before grievance mechanisms. The scale of production and sourcing is a relevant factor but it should not be the only one.

2. Human rights impact assessments

46. Business enterprises should conduct impact assessments to assess potential and actual adverse human rights impacts. Because human rights situations are dynamic, assessments should be undertaken at regular intervals.

47. The conduct of human rights impact assessments is an emerging field. Several companies at the end of the supply chain are in the process of conducting third-party impact assessments of potential and actual human rights risks (including with regard to land) linked to their suppliers and business partners in sourcing countries. Companies and civil society organizations are starting to draw lessons from these first assessments.[40]

48. While impact assessments should cover all potentially affected human rights, when applied to plantations and mills, they should systematically identify impacts on the land and tenure rights of affected communities. Those conducting the assessments should have expertise in and use sources specific to land and economic, social and cultural rights, such as the Land Matrix.[41]

49. Meaningful consultation with potentially affected groups is essential for assessing adverse impacts, to understand the specific impacts on specific people, in a specific context of operations (Guiding Principle 18). This will ensure the legitimacy and effectiveness of the due diligence process. Such process requires adequate time and resources.

3. Integrate the findings from impact assessments and take appropriate action

50. The third step of due diligence is to integrate findings from impact assessments across relevant internal functions and processes and to take appropriate action.

51. Appropriate action will vary according to whether the business enterprise causes or contributes to an adverse impact or whether it is directly linked only; and

[39] The OECD-FAO Guidance suggests a similar list of "red flag" countries, as set out in box 3.1, p. 33.

[40] Examples include assessments commissioned by The Coca-Cola Company, PepsiCo and Nestlé. An evaluation by Oxfam of the Coca-Cola and PepsiCo assessments in Brazil is ongoing.

[41] See http://landmatrix.org/en/.

according to the extent of its leverage in addressing the adverse impact (see section IV.C below).

4. Tracking

52. Tracking is necessary in order for a business enterprise to know if its human rights policies are being implemented and for it to respond effectively to human rights impacts. Some companies have started tracking their human rights performance. The Working Group urges more companies to do so and to conduct such tracking and measurement through inclusive processes with the participation of other stakeholders, including affected communities (see A/70/216).

5. Communicate externally

53. Communication is the fourth element of due diligence (Guiding Principle 21). While much emphasis has been placed recently on formal and public reporting, what is particularly important here is communication on actual adverse impacts, raised by or on behalf of affected individuals and communities. Companies must be prepared to communicate about the human rights risks they have identified in their operations and what has been done to address the risks.[42] Communication can take many forms, but it needs to be accessible to its intended audience, in this case local communities. Finally, as companies roll out human rights impact assessments they should communicate about methodologies, processes and results. Until now there has been some hesitation from companies to do so.

6. Traceability

54. Traceability is necessary for both tracking and impact assessments. Consumer-facing companies that are several tiers removed from agricultural production may face challenges in ensuring traceability and the sustainability of the entire supply chains since a large portion of their chains consist of a complex web of smallholders, middlemen and third-party suppliers. Nonetheless, companies should systematically work towards a complete picture of their business relationships.[43] Incentives may be higher for companies sourcing coffee or cocoa to trace their origin, given that the origin matters for quality and taste and for consumers. However the traceability of palm oil and sugarcane — back to plantations, not only mills — is essential for preventing and addressing human rights risks.

D. Financial institutions

55. While financial institutions in principle can cause or contribute to human rights abuse, their involvement will often be in the form of "direct linkage", whereby financial institutions are directly linked to an adverse human rights impact by their business relationships (Guiding Principle 13(b)). The Office of the United Nations High Commissioner for Human Rights (OHCHR) has clarified that a direct link between a financial institution's products, services or operations and an adverse

[42] See also OECD Guidelines for Multinational Enterprises and the Principles for Responsible Investment in Agriculture and Food Systems endorsed by the Committee on World Food Security.

[43] OECD-FAO Guidance (see footnote 33 above).

human rights impact can arise through its business relationships with investee companies, project partners, clients and other entities.[44]

56. When it comes to investors, it is important to note that the size of an investor's share is not in itself a factor in determining whether the Guiding Principles apply. It is clear that they apply to investors that hold both majority and minority shareholdings. Rather, the size of the investor's share can be a factor in considering the means through which it meets its responsibility to respect human rights, including the leverage it can exercise in its business relationships. Recent cases before the OECD national contact points have reiterated the responsibilities of finance institutions, including minority investors, in situations of direct linkage.[45]

57. Specific to the sugarcane and palm oil sectors, all mills and plantations require significant capital investment, and all expansion requires capital. There are generally several banks and many minority investors to one company.[46] Hence, financial institutions may be directly linked through loans or equity investment to companies operating in the palm oil and sugarcane sectors whose operations cause or contribute to harm.[47]

58. In the light of the potentially severe impacts on human rights associated with agro-industrial operations overall, and sugarcane and palm oil in particular, some financial institutions are taking steps to strengthen their sustainability or social and environmental risk policies, including on sugarcane and palm oil, while others have divested funds from companies over environmental concerns.[48]

E. Commodity traders

59. Attention to the role of commodity traders, their responsibilities and the leverage they may have is set to increase. Traders have been called upon to "tackle land grabbing and support responsible agricultural investments".[49] For instance, only six traders account for the majority of world sugar trade: a shift in policy on their part could have significant impacts.

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[44] See letter dated 27 November 2013 from OHCHR addressed to the Chair of the OECD Working Party on Responsible Business Conduct regarding the Guiding Principles on Business and Human Rights and the financial sector, p. 5, available from www.ohchr.org/Documents/Issues/Business/LetterOECD.pdf. See also OECD Guidelines for Multinational Enterprises, the Equator Principles (for project finance) and the United Nations Environment Programme Finance Initiative.

[45] See the following national contact points: France, http://mneguidelines.oecd.org/database/instances/fr0014.htm; the Netherlands, http://mneguidelines.oecd.org/database/instances/nl0024.htm; and Norway, http://mneguidelines.oecd.org/database/instances/no0013.htm.

[46] See, for example, Friends of the Earth International, "Wilmar and its financiers: commitments and contradictions", Factsheet (May 2013).

[47] Examples of cases are available from https://business-humanrights.org/en/issues/investment-trade-globalisation/project-financingloans.

[48] See Rabobank Group, "Sustainability policy framework", available from https://www.rabobank.com/en/images/sustainability-policy-framework.pdf; and Norges Bank Investment Management, "Human rights expectations towards companies", available from www.nbim.no/en/responsibility/risk-management/human-rights. Norges Bank Investment Management manages Norway's pension fund, which also divested from four palm oil companies in 2015.

[49] Oxfam, "Nothing sweet about it" (see footnote 5 above).

60. Increased transparency in this sector seems key, such as in the form of increased reporting by traders on environmental, social and governance factors, including human rights. If commodity trading platforms required meaningful information on the sustainability of traded commodities, including on human rights, traders and their suppliers would be incentivized to look at and address human rights impacts related to palm oil and sugarcane.

IV. Specific issues

61. In section IV of the present report, the Working Group discusses issues that are either cross-cutting or seem particularly important to ensure the actual protection of local communities affected by the production of palm oil and sugarcane.

A. Transparency and disclosure

62. In many countries, procedures for decision-making on land acquisitions, including those related to access to information and transparency, do not exist or are not implemented, and contract negotiations are made without the knowledge or consent of communities potentially affected. Often there is no complete official list of land concessions and no public information on impact assessments. Financial institutions are perceived as particularly opaque and as hiding behind "walls of client confidentiality".[50]

63. Confidentiality may sometimes be justified when access to sensitive information may give competitors a commercial advantage. Yet, State-investor contracts are not just commercial transactions — they set the terms and conditions of investment that will directly affect people's lives. Lack of transparency and public scrutiny in contract negotiation and management creates the breeding ground for corruption and deals that disregard public interest. They also fuel resentment by affected communities.[51]

64. Transparency and the rights to access information (including from businesses) and to participate in decision-making are essential safeguards against such practices and are recognized by States in international agreements, such as the United Nations Convention against Corruption and the International Covenant on Civil and Political Rights and, more recently, the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration (see A/HRC/30/26).

65. Given the risks that land investments represent for human rights and the public interest, disclosure should be the norm, not the exception, and be seen as an integral part of meaningful community engagement.[52] Information on the terms of State-investor contracts, and data on active land concessions (including on company

[50] Ryan Brightwell, "Banking with principles? Benchmarking banks against the Guiding Principles and human rights", 2nd ed. (BankTrack, June 2016), p.10.

[51] See report of the Special Rapporteur on the situation of human rights in Cambodia, on a human rights analysis of economic land concessions (A/HRC/21/63/Add.1); De Schutter, "Tainted lands" (see footnote 11 above); Lorenzo Cotula, *Land Rights and Investment Treaties: Exploring the Interface* (London, International Institute for Environment and Development, 2015).

[52] Principles for responsible contracts (principles 7 and 10); see also Global Witness, "Dealing with disclosure: improving transparency in decision-making over large-scale land acquisitions, allocations and investments" (April 2012).

management, shareholders and parent companies, concession fees and revenues), among other issues, should be made public (see A/HRC/21/63/Add.1).

66. In Guiding Principle 21, emphasis is placed on the importance of businesses communicating externally on how they address their human rights impacts. Increased and more meaningful transparency by companies helps to build stakeholder trust, including from affected communities. According to the OECD-FAO Guidance for Responsible Agricultural Supply Chains, companies will commit, to the greatest extent possible, to transparency and information disclosure on land-based investments, including transparency of lease/concession contract terms. Some companies have committed to doing so.[53]

B. Consultation with indigenous peoples and local communities, and the right to free, prior and informed consent

1. State duties

67. The State has a duty to consult with indigenous peoples through their own representatives in order to obtain their free, prior and informed consent whenever taking decisions, such as authorizing projects in or near their lands, that have a direct impact on their collective rights and interests.[54]

68. The State duty to consult applies during the project planning stage, prior to the authorization or to entering into contracts and is ongoing throughout the project lifecycle. It is aimed at ensuring meaningful participation in decision-making processes and must be accompanied by participatory human rights, and environmental and social impact assessments. In this regard, consultation and consent protocols, maps addressing community land tenure, or impact assessments developed by the communities themselves should be respected (see A/68/279, paras. 10 and 57; and A/HRC/33/42/Add.1).

69. In the case of non-indigenous peoples, human rights law requires FPIC in certain contexts, for example for groups, such as tribal peoples and other groups, who share similar characteristics with indigenous peoples. In the case of other non-indigenous communities, international human rights law also requires that at a minimum there must be good faith, informed consultations with all affected persons, including women and those particularly vulnerable, and full respect for human rights (see, e.g., A/HRC/4/18, annex 1, paras. 38-39).

2. Core elements of free, prior and informed consent

70. Free, prior and informed consent is an internal process of consensus-building among the concerned indigenous people and a mechanism through which they operationalize their self-governance rights vis-à-vis external actors (see, e.g., A/HRC/4/18, annex 1, paras. 38-39).[55] This implies that processes regarding free, prior and informed consent must, as far as possible, be determined and controlled by the indigenous peoples in question.

[53] See, for example, the land policy of PepsiCo, available from www.pepsico.com.

[54] See the United Nations Declaration on the Rights of Indigenous Peoples, articles 19 and 32; and ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), articles 6, 7 and 15.

[55] Cathal Doyle C and Jill Cariño, "Making free, prior and informed consent a reality: indigenous peoples and the extractive sector" (2013).

71. The core elements of free, prior and informed consent can be summarized as follows:[56]

- "Free" implies that there is no coercion, intimidation or manipulation, and that the communities are consulted through their self-chosen representatives.
- "Prior" implies that consent is to be sought sufficiently in advance of any authorization or commencement of activities and respect is shown to time requirements of indigenous consultation/consensus processes.
- "Informed" implies that communities have been provided with all the information relating to project plans and activities, and the potential impacts on their rights, and that the information is objective, accurate and presented in a manner and form understandable to them.
- "Consent" must be the objective of consultation, and implies that all affected peoples and communities have the opportunity to decide if they agree to the proposed project or not. This process must include the option of withholding consent.

3. Meaningful consultation by companies

72. Companies should respect the rights of local communities and indigenous peoples to be consulted and to give or withhold free, prior and informed consent, in all their operations, and should protect these rights in the conduct of due diligence. This applies irrespective of a national legislative framework.

73. From a pragmatic perspective, engaging in good faith consultations in order to obtain free, prior and informed consent provides a mechanism through which corporations can avoid the material, legal and reputational risks they will otherwise face. Free, prior and informed consent provides the platform for constructive engagements with indigenous peoples in a manner consistent with the corporate responsibility to respect human rights. It should not be seen as a mere compliance exercise.

74. A number of companies have recognized the ethical and practical imperatives for the commitment to respect free, prior and informed consent. Several have made this commitment without differentiating between indigenous or non-indigenous peoples. Given the distinctive characteristics of indigenous peoples and their collective self-determination rights, implementation of this commitment will necessarily be different in a local community that does not have its own institutional structures and customary laws and processes. In all contexts when attempting to operationalize free, prior and informed consent it is essential to bear in mind the territorial, cultural and self-governance rights upon which the requirement for free, prior and informed consent is premised and to which it seeks to give effect.

[56] The elements have been discussed and defined in various reports, including A/HRC/24/41 and A/HRC/18/42, annex, and in the September 2013 OHCHR fact sheet on the issue, available from www.ohchr.org/Documents/Issues/IPeoples/FreePriorandInformedConsent.pdf.

C. Exercising and increasing leverage

1. Leverage and ways to exercise it

75. Exercising leverage is crucial to ensure that harm is effectively addressed. While it is an inherent part of a company's human rights due diligence under the Guiding Principles, it is also a useful lens that other actors such as multi-stakeholder initiatives could use for deciding which action to take to effect change.

76. Guiding Principle 19 stipulates that when a company is contributing or directly linked to an adverse human rights impact it should use its leverage to mitigate the impact. Leverage refers to the ability of a business enterprise to effect change in the wrongful practices of another party that is causing or contributing to an adverse human rights impact.[57]

77. Leverage is not determined by proximity in the supply chain, and companies further removed from the actual harm may have more leverage than others closer to it. Furthermore, leverage is not limited to situations of control.[58] Companies may have leverage over upstream suppliers and contractors, their partners in joint ventures or other "horizontal" partners, down-stream customers or clients, and the Government.[59]

78. In accordance with Guiding Principle 19, if the business enterprise has leverage to prevent or mitigate the adverse impact, it should exercise it. And if it lacks leverage there may be ways for the enterprise to increase it.

79. Leverage is inherently context-specific and can be exercised in different ways to address a specific business relationship, impact, or local or country context. Companies have different ways to exercise leverage. Results from a workshop held for companies identified five ways a business could exercise leverage:[60] traditional commercial leverage, broader business leverage, leverage together with business partners,[61] leverage through bilateral engagement, and leverage through multi-stakeholder collaboration (see section IV.D below).

80. Guiding Principle 19 notes that if a company faces a situation where it does not have, or perceive to have, sufficient leverage to influence the business entity's behaviour, and cannot increase its leverage, it should consider when and how it might be appropriate to terminate the business relationship, taking into account credible assessments of any potential adverse impact of doing so.[62]

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[57] See OHCHR, "The corporate responsibility to respect human rights", p. 7 (see footnote 38 above).

[58] See https://business-humanrights.org/sites/default/files/documents/Ruggie-letter-Ryder-30-May-2016.pdf.

[59] Shift, "Using leverage in business relationships to reduce human rights risks" (New York, November 2015), pp. 5-6.

[60] Ibid.

[61] See, for example, the Indonesia Palm Oil Pledge, active from 2014 to 2016, available from www.palmoilpledge.id/en/.

[62] See OHCHR, "The corporate responsibility" (see footnote 38 above); and Mariette van Huijstee, Lydia de Leeuw and Joseph Wilde-Ramsing, "Should I stay or should I go? Exploring the role of disengagement in human rights due diligence", Centre for Research on Multinational Corporations (SOMO) discussion paper (April 2016).

2. Addressing systemic obstacles to respect for human rights and sustainability

81. A number of consumer goods companies have recognized the transformative role they can play as major buyers of cane sugar and palm oil. This arguably goes beyond exercising leverage in relation to specific impacts linked to their supply chains but reflects that there are systemic challenges relevant to the wider operations of those companies and that, given the particular position of the companies in the industry, they have the leverage to raise the bar for the entire industry.[63]

82. For the two sectors at play, systemic challenges relate to the lack of market incentives for sustainability and lack of respect of human rights including land-related rights in many countries. One issue is that demands for sustainable palm oil and sugarcane come predominantly from the European market. The low level of certified sugarcane production compared with global production[64] and the existence of alternatives to cane sugar add complexity to exercising leverage in this sector (while demands for and production of certified sustainable palm oil are greater).[65]

83. Exercising leverage collectively, for instance through multi-stakeholder initiatives, is important in addressing these challenges.

D. Multi-stakeholder initiatives

84. Multi-stakeholder initiatives have been established for both the palm oil and sugar sectors, involving the participation of companies from various tiers of the supply chain, financial institutions and civil society organizations. In their various roles — certification schemes, grievance mechanisms and forums for multi-stakeholder dialogue — the initiatives can contribute meaningfully to efforts that address human rights challenges.

85. The Roundtable on Sustainable Palm Oil,[66] Bonsucro[67] and the Roundtable on Sustainable Biofuels [68] require member companies to respect the customary rights of local communities and indigenous peoples, including their right to give or withhold free, prior or informed consent.[69] In line with multi-stakeholder initiative standards,

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[63] See, for example, information from Unilever, available from www.unilever.com/sustainable-living/the-sustainable-living-plan/reducing-environmental-impact/sustainable-sourcing/transforming-the-palm-oil-industry/.

[64] The level of certified sugarcane production is at 3.87 per cent of global production: see http://bonsucro.com/site/in-numbers/ (last accessed 29 July 2016).

[65] The production of certified sustainable palm oil is roughly at 17 per cent of global production: see www.rspo.org/about/impacts (last accessed 29 July 2016).

[66] See www.rspo.org/.

[67] http://bonsucro.com/.

[68] http://rsb.org/.

[69] See "Adoption of the principles and criteria for the production of sustainable palm oil" (2013), available from www.rspo.org/file/revisedPandC2013.pdf; Bonsucro Production Standard V 4.1.1, available from http://bonsucro.com/site/wp-content/uploads/2013/02/Bonsucro-Production-Standard-4.1.1.pdf; and Roundtable on Sustainable Biofuels, "Principles and criteria for sustainable biofuel production: version 2.1. (March 2011), available from http://rsb.org/pdfs/standards/11-03-08%20RSB%20PCs%20Version%202.1.pdf.

a number of companies have developed procedures in relation to customary land rights, conflict resolution, and information-sharing.[70]

86. However, the current indicators for compliance under the Roundtable on Sustainable Palm Oil and Bonsucro's standards tend to focus on the multi-stakeholder process rather than verifiable outcomes. Human rights (for which standard guidance is generally weak) are often poorly addressed in environmental and social impact assessments and audits, which in turn lack independent and transparent monitoring mechanisms.[71]

87. Capacity and resource limitations of multi-stakeholder initiative grievance mechanisms to adequately address the number and types of complaints received, particularly on human rights,[72] and the lack of independent investigations by MSIs of on-site disputes, are ongoing concerns. So are the limited capacity and resources of affected communities and civil society organizations to access and activate these mechanisms. Another challenge lies in balancing multi-stakeholder initiative appeals to companies while remaining sensitive to genuine complaints of abuses. For some companies, financial incentives to retain membership and achieve certification are weak, and when faced with a complaint the companies might therefore decide to withdraw.

88. As part of their transformative role, multi-stakeholder initiatives could play a greater role as convenors and in dialogue with Governments, individual companies and national business associations, in addressing systemic governance gaps and economic disincentives to sustainability and respect for human rights.

E. Access to effective remedy

89. Access to remedy is an essential component of the State's duty to protect and a company's responsibility to respect. It covers both State-based judicial and non-judicial mechanisms and non-State based mechanisms, including operational-level grievance mechanisms. These can be supplemented by the remedial functions of international and regional human rights mechanisms.

90. Access to remedy has both procedural and substantive aspects (Guiding Principle 25). Remedy may include apologies, restitution, rehabilitation, compensation and sanctions, as well as the prevention of harm. In the case of local communities and land acquisitions, remedies must assess impacts on land and tenure rights. Restitution and compensation in the form of land commensurate in quality,

[70] See, for example, corporate communication from IOI Group, "IOI to revise its group sustainability policy", (16 June 2016), available from www.ioigroup.com/Content/NEWS/NewsroomDetails?intNewsID=805; and the forest conservation policy of Golden Agri-Resources, available from www.goldenagri.com.sg/pdfs/sustain_policies/1._GAR_Forest_Conservation_Policy_-_updated_links_10_Jan_2014.pdf.

[71] Grassroots and Environmental Investigation Agency, "Who watches the watchmen? Auditors and the breakdown of oversight in the RSPO" (November 2015).

[72] For example, 62 complaints have been filed to the Roundtable on Sustainable Palm Oil since 2009, of which 19 remain unresolved and 40 per cent pertained to alleged violations of free, prior and informed consent (see www.rspo.org/members/complaints); see also criticism of Bonsucro (www.inclusivedevelopment.net/idi-and-partners-challenge-thai-companys-membership-in-sustainable-sugar-group/).

size and value, or better, are particularly important.[73] Procedures for remedy should be impartial, protected from corruption and free from political or other influences.

1. Limitations of judicial mechanisms

91. Effective judicial mechanisms are at the core of ensuring access to remedy, and States should take appropriate steps to ensure their effectiveness (Guiding Principle 26).

92. In practice, however, victims of business-related human rights abuse face a range of barriers to access effective remedy. Domestic law remedies the world over have been found to be "patchy, unpredictable, often ineffective and fragile", with challenges exacerbated in cross-border cases (as may often be the case in the context of investment) (see A/HRC/32/19, paras. 4-5).

93. Furthermore, many jurisdictions are characterized by legal uncertainty surrounding the extent to which parent companies (and other constituent companies within a business enterprise) have legal responsibilities under domestic law regimes to identify, prevent and mitigate human rights abuses connected with that business enterprise's operations (see A/HRC/32/19). In addition, the lack of clarity across jurisdictions about the respective roles of home and host States often prevents access to remedy for victims. Attempts to hold buyers liable for abuses conducted by suppliers down the supply chain have thus far not been successful.[74]

94. In response, OHCHR has developed guidance for States on enhancing the effectiveness of domestic legal systems, including in cross-border cases (see A/HRC/32/19, annex).

2. Challenges and opportunities of non-judicial grievance mechanisms

95. In the Guiding Principles (Guiding Principle 31), seven effectiveness criteria for non-judicial grievance mechanisms are identified. Mechanisms should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning and based on engagement and dialogue. Importantly, the criterion of rights-compatibility demands that outcomes and remedies accord with internationally recognized human rights.

96. Non-judicial mechanisms activated by communities in the context of palm oil and sugarcane include land-dispute mechanisms, national human rights institutions, home-State based mechanisms, complaints mechanisms of international finance institutions (in particular the Office of the Compliance Advisor/Ombudsman,[75] grievance mechanisms under multi-stakeholder initiatives, and the operational level grievance mechanisms of companies. The Working Group highlights some of the limitations and opportunities of these mechanisms below.

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[73] Voluntary Guidelines on Land Tenure and A/HRC/4/18, annex.

[74] See the complaint by Cambodian villagers before a United Kingdom court against Tate & Lyle and T&L Sugars, available from https://business-humanrights.org/en/koh-kong-sugar-plantation-lawsuits-re-cambodia.

[75] The Office of the Compliance Advisor/Ombudsman is the independent recourse mechanism for the International Finance Corporation and the Multilateral Investment Guarantee Agency and has examined quite a few complaints related to agro-industrial operations. See, for example, www.cao-ombudsman.org/languages/french/documents/CAO_10Year_AR_web.pdf.

97. In the case of land acquisitions, relevant State-based mechanisms include mechanisms specifically mandated to solve land disputes, in relation to an existing land demarcation project or land reform, for instance. However, they appear to suffer from the same issues as judicial mechanisms, such as administrative and financial obstacles and the perception of political interference (see A/HRC/21/63/Add.1, para. 177).

98. National contact points of the OECD Guidelines for Multinational Enterprises, as a key (home) State-based mechanism, have the potential to offer redress. A number of "specific instances" have highlighted the impacts of palm oil and sugarcane plantations in Cambodia, Cameroon and Indonesia, with national contact points in Australia, Belgium, France, Luxembourg, the Netherlands and the United States seized.[76] While national contact points have all confirmed that adverse impacts had taken place, results in bringing about change in behaviour or redress for affected communities have been mixed. Civil society organizations have highlighted gaps in human rights protection of the national contact point system overall and have put forward recommendations.[77]

99. While national human rights institutions could also play a relevant role, and some have carried out important inquiries into human rights abuses in the palm oil and sugarcane sectors recently, with respect to Indonesia, Malaysia and Cambodia,[78] in some instances they may not have the mandate to deal with land-related rights. In addition, their recommendations are effective only insofar as States are willing and able to put them into practice.

100. An additional criterion that is stipulated in Guiding Principle 31 for business enterprise operational-level grievance mechanisms is that the mechanisms are based on engagement and dialogue (consulting the stakeholder groups for whose use they are intended on their design and performance, and focusing on dialogue as the means to address and resolve grievances). Businesses at various tiers of the supply chain have developed such mechanisms and standard operational procedures in relation to customary land rights, conflict resolution and information-sharing in order to guide their activities and interaction with local communities.[79] However, operational ground staff often lack awareness of these mechanisms. The absence of independent monitoring and evaluation procedures, and of independent legal counsel to communities, further limits their effectiveness.

101. Underexplored thus far in this regard, indigenous peoples' mechanisms of customary law have the advantage of being accessible and controlled by indigenous

[76] See http://mneguidelines.oecd.org/database/.

[77] See www.oecdwatch.org.

[78] See Business and Human Rights Centre, "Indonesia: Human Rights Commission's first national inquiry into abuses of indigenous peoples' land rights (2016), available from http://business-humanrights.org/en/indonesia-human-rights-commission%E2%80%99s-first-national-inquiry-into-abuses-of-indigenous-peoples%E2%80%99-land-rights; National Human Rights Commission of Malaysia (SUHAKAM), *Report of the National Inquiry into the Land Rights of Indigenous Peoples* (Kuala Lumpur, 2013); EarthRights International, "Human rights violations in Koh Kong Sugar Plantation in Cambodia confirmed by Thai Human Rights Commission (3 June 2015), available from www.earthrights.org/media/human-rights-violations-koh-kong-sugar-plantation-confirmed-thai-human-rights-commission.

[79] See, for example, Wilmar, "No deforestation, no peat, no exploitation policy" (5 December 2013), available from www.wilmar-international.com/wp-content/uploads/2012/11/No-Deforestation-No-Peat-No-Exploitation-Policy.pdf.

peoples and oriented towards rehabilitation and reconciliation. They could be instrumental in solving long-standing conflicts.[80]

102. Non-judicial mechanisms have often limited ability to address systemic issues and, when conflict-resolution/dialogue is part of their mandate, depend on company cooperation. For instance, one case before the IFC Office of the Compliance Advisor/Ombudsman resulted in the temporary suspension of funding provided by the World Bank Group to the palm oil sector and the adoption of a new framework for the palm oil sector in 2011.[81] However, the systemic irregularities across the specific company's operations were not addressed, and the company's divestment of a plantation where the IFC Office of the Compliance Advisor/Ombudsman was mediating a protracted human rights abuse case led to the termination of the conflict resolution process. National contact point instances reflect similar challenges: in one case, the United States national contact point had to close the instance since the company refused to share information (the same company's refusal to disclose any information also led to its suspension from Bonsucro and its ultimate voluntary withdrawal); and in another case, progress was stalled because the majority owner of a joint venture refused to cooperate.

103. A final lesson suggests that where different mechanisms have been used by communities and non-governmental organizations representing them in conjunction, targeting different actors along the supply chain as well as Governments, they tend to be more effective. However, using multiple mechanisms in parallel requires considerable resources and skills, to which communities and their supporting organizations often do not have sustained or easy access.

V. Conclusion and recommendations

104. **Land investments are among today's most difficult business and human rights issues. When land acquisitions take place without due regard for the human rights of indigenous peoples and local communities living on and using the land, they have major impacts. They lead to hardship and the impoverishment of the communities, violence and countless conflicts between the communities and the companies and government authorities, who often view land in a fundamentally different manner.**

105. **On the one hand, land and forests have social, cultural, spiritual, economic and environmental value to indigenous peoples and other communities — as such, they are essential to the existence of the communities. On the other hand, land is a major economic asset for Governments and companies. The demand for palm oil and sugar, basic commodities used by people worldwide, is increasing, and with it comes continuing and increased pressure on land for sugarcane and oil palm plantations.**

106. **The problems are well known. Addressing them requires extra effort by all stakeholders. While systemic change involves considerable time and**

[80] See A/68/279, paras. 50-51; John Ahni Schertow, "Canadian mining firm admits wrongdoings to Subanon people", *IC Magazine* (25 May 2011), available from https://intercontinentalcry.org/canadian-mining-firm-admits-wrongdoings-to-subanon-people/.

[81] See www.cao-ombudsman.org/cases/case_detail.aspx?id=76.

resources, efforts to prevent, mitigate and address adverse impacts on human rights are both urgent and critical for the affected communities.

107. While the present report discusses at some length the responsibilities of companies, the primary obligations of Governments cannot be ignored. Business-related human rights abuse is often exacerbated by a lack of rule of law, legislation and enforcement in support of the rights of communities. If Governments in production countries were actually ensuring and protecting the rights of indigenous peoples and other communities to their land under international human rights law, land acquisitions would not result in the scale of harm seen today.

108. An obstacle to enforcement is the lack of capacity of central and local authorities in charge of overseeing the allocation and use of land for agro-industrial plantations. At a more fundamental level, a major obstacle relates to the political economy of land and land governance. When the rule of law is absent or out of the reach of the poorest and most vulnerable, decision-making processes related to the access and use of land can easily lead to conflicts of interest, exclusion and discrimination.

109. A weak land governance context makes it more difficult, but all the more important, for businesses to exercise due diligence and take robust measures to prevent, mitigate and remedy negative impacts on communities. The Working Group welcomes the commitments made by a number of business enterprises to respect land rights and indigenous rights in all of their operations, including business relationships. Implementing the commitments, however, is not an easy task. In the present report, the Working Group highlights some of the measures that businesses could take or are already taking. Leverage is essential in this regard, and the Working Group reiterates that business enterprises contributing or with direct linkage to negative impacts through their business relationships should use their leverage to the fullest extent, and increase it when leverage seems inadequate.

110. Communities deprived unlawfully of their land have a right to remedy, and Governments must do much more to ensure the independence, accessibility and effectiveness of State-based remedies. At the same time, businesses cannot stay idle — they must do their part to facilitate remediation of harm suffered, even when this may create tension between them and their business partners, suppliers or Governments.

111. Financial institutions also have a major role to play, but today few seem to accept their full responsibility to respect human rights through their loans or investments. This has real consequences — when finance freely flows without accountability, there is little incentive to respect rights, and both affected communities and businesses trying to address harm find themselves with less influence over the situation.

112. The present report also flags the complementary roles of home States and multi-stakeholder initiatives in closing governance gaps and increasing leverage. The need for such initiatives to address human rights risks more decisively is essential.

113. The Working Group makes the recommendations below to those actors who have not only the duty or responsibility but also the leverage to transform

current practices in agro-industrial operations so that they benefit communities and ultimately the industry as a whole.

114. Recommendations to host States:

(a) Guarantee in law, and protect, the land and tenure rights of local communities and their members, and indigenous peoples' rights, including to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, and to give or withhold their free, prior and informed consent;

(b) Guarantee access to information on land acquisitions, State-investor contracts and land concessions impacting the rights of local communities, in an appropriate form and language;

(c) Ensure that adequate environmental, social and human rights impact assessments are conducted prior to granting land;

(d) Require business enterprises to conduct due diligence and ensure respect for the rights of indigenous peoples and local communities in all their operations;

(e) Maintain the necessary policy space when entering into investment contracts and international investment agreements to protect the human rights of indigenous peoples and local communities. In particular, investor protections should not override the rights of indigenous peoples and local communities;

(f) Ensure access to effective judicial and non-judicial remedies for communities affected by land acquisitions, including land restitution and compensation in the form of land, in particular for indigenous peoples. Remove financial, administrative and other barriers to accessing remedy;

(g) Protect land and environmental rights defenders. Under no circumstances should the judiciary be used to criminalize the legitimate activities of defenders.

115. Recommendations to home States:

(a) Ensure that OECD national contact points are accessible, independent, impartial and competent to address land-related complaints. This includes knowledge of indigenous peoples' rights;

(b) Require companies to conduct human rights due diligence to ensure respect for indigenous peoples and local communities' rights in their supply chains;

(c) Require supply chain transparency;

(d) Adopt and enforce regulations in relation to the human rights impacts overseas of companies domiciled in home States.

116. Recommendations to business enterprises, including financial institutions and traders:

(a) Adopt or strengthen policies on human rights, responsible sourcing or lending, including commitments to respect land and tenure rights, to meaningfully engage with affected stakeholders and to respect the right of

indigenous peoples to free, prior and informed consent, including their right to define the process through which free, prior and informed consent is sought;

(b) Conduct and prioritize human rights due diligence, in particular country- and sector-specific human rights impact assessments, wherever the rights of indigenous peoples or local communities are potentially affected. Due diligence should include the participation of potentially affected indigenous peoples and local communities;

(c) Ensure that operational grievance mechanisms comply with the effectiveness criteria of the Guiding Principles, including consulting indigenous peoples and local communities in relation to their design;

(d) Businesses contributing to or directly linked to adverse human rights impacts on communities in countries of production should exercise or increase leverage to effectively address and remediate harm;

(e) Traders should know and show that the sugarcane and palm oil they trade are not products of human rights abuse.

117. Recommendations to multi-stakeholder initiatives and industry associations:

(a) Take a more decisive role to encourage member companies to improve practices related to human rights, in particular land-related rights;

(b) Carry out independent field investigations where reports of protracted or serious human rights abuses have been reported and confirmed;

(c) Assess independently and through multi-stakeholder consultations the extent to which their grievance mechanisms fulfil the effectiveness criteria set out in Guiding Principle 31;

(d) Increase outreach and awareness-raising efforts about the multi-stakeholder initiatives towards indigenous peoples and local communities;

(e) Promote and participate in cross-sectoral dialogue with other multi-stakeholder initiatives and associations to share lessons learned and recommendations for improvement, in particular on land issues.

118. Recommendations to civil society and international organizations:

(a) Raise awareness of indigenous peoples and local communities about their rights and the remedy mechanisms available to assert the rights and, in line with the decision-making processes of communities, assist in accessing these mechanisms;

(b) Assist indigenous peoples and local communities in documenting and compiling formal evidence towards supporting complaints submitted, such as in the form of written chronologies, documents, photographs and recordings.

United Nations A/71/292*

General Assembly

Distr.: General
4 August 2016

Original: English

Seventy-first session
Item 24 (a) of the preliminary list**
Operational activities for development: operational activities for development of the United Nations system

Quadrennial comprehensive policy review of operational activities for development of the United Nations system: recommendations

Report of the Secretary-General

Summary

The present report contains recommendations for consideration by the General Assembly during the 2016 quadrennial comprehensive policy review negotiations. It complements the report of the Secretary-General on the implementation of General Assembly resolution 67/226 on the quadrennial comprehensive policy review of operational activities for development of the United Nations (A/71/63-E/2016/8). That report made it clear that the United Nations development system is uniquely qualified to support national implementation of the 2030 Agenda for Sustainable Development. However, it needs to reposition itself to respond to both the opportunities and challenges of the universal, transformative and ambitious nature of the Agenda.

The new development era calls for a new dynamic ways of thinking, new ways of acting and new ways of organizing. The United Nations development system has embraced this vision and has already taken steps in this direction. The independent team of advisers that supported the discussions of Member States in the course of the dialogue on the longer-term positioning of the United Nations development system has provided bold ideas for a way forward.

The recommendations found in this report offer building blocks for change, to be realized through a phased approach. The 2016 quadrennial comprehensive policy review is the first step forward. It provides a critical opportunity for Member States to chart the course for the United Nations development in the short and medium term, while simultaneously laying the foundations for the future.

* Reissued for technical reasons on 26 August 2016.

** A/71/50.

16-13534* (E) 260816

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I. Introduction

1. The 2030 Agenda for Sustainable Development is ambitious in its Goals and targets, bringing together the world's development needs in an interconnected whole. The integrated and universal nature of the 2030 Agenda raises the bar high. It presents not only an unprecedented challenge to the United Nations and its development system, but also an unrivalled opportunity for a prosperous, peaceful, sustainable and equitable world.

2. Both challenges and opportunities are greater in a world where the needs and dynamics have changed. Member States' growing capacities, newly engaged and resourceful development players, global challenges that know no borders, rising inequality, protracted crises and other trends that distinguish today's playing field call for a collective response. The need for collective action demands that the United Nations development system delivers a unified and targeted response, cutting across the sectors and pillars of the work of the United Nations, by stepping up its leadership, developing tailor-made solutions, adopting a multi-stakeholder approach and cutting through vertical organizational lines to strengthen horizontal results and accountability to ultimately align its response with the 2030 Agenda.

3. The report of the Secretary-General on the implementation of General Assembly resolution 67/226 on the quadrennial comprehensive policy review of operational activities for development of the United Nations (A/71/63-E/2016/8) highlighted the expected role of the United Nations development system in supporting the implementation of the 2030 Agenda, framing it around the "what", its functions, and the "how", its operational and institutional set-up. The report made it clear that this requires a profound rethinking of the United Nations development system, because, while the development system is uniquely qualified to support national implementation of the 2030 Agenda, it needs to reposition itself to do so.

4. The transformed development landscape, with its ambition, interconnectedness and universality, calls for a system whose parts can work in tandem. Entities of the United Nations development system[1] were created and have evolved to serve specific and differing needs, reflected in their diverse specialization and spheres of influence. They have often risen above their specific mandates and worked collectively. But the 2030 Agenda requires the development system to pursue much more integrated approaches and create cross-sectoral synergies to deliver highly interlinked results at all levels, supported by an enabling funding and governance architecture.

[1] For the purposes of the funding analysis included in report of the Secretary-General on the implementation of General Assembly resolution 67/226, the definitions of "United Nations development system" and "operational activities for development" included those entities and activities linked to contributions in line with the definition of "operational activities for development" of the Organization for Economic Cooperation and Development (A/71/63-E/2016/8, para. 17 and footnote 2). This is not intended to imply that entities listed as part of the United Nations development system for the funding analysis are part of the development system for other purposes. For example, the Office for the Coordination of Humanitarian Affairs of the Secretariat is not part of the United Nations development system for purposes other than for the funding analysis in the report (A/71/63-E/2016/8, para. 19), in line with its non-operational humanitarian coordination mandate.

5. The United Nations development system has recognized this moment as a window of opportunity and has already taken practical measures, both individually and collectively, to rise to the challenge of doing business differently and deliver the type of joined up support that is essential for advancing sustainable development. It has done so by capitalizing on its diversity, pursuing a human rights-based and people-centred approach, placing stronger focus on its normative role and putting the imperative of addressing inequalities and eliminating discrimination at the heart of its interventions. The development system recognizes that its primary focus should be enabling the achievement of interlinked and transformative results at the country level and promoting national ownership. To that end, the development system has renewed its commitment to deliver together across mandates, sectors and institutional boundaries, working within the framework of the Charter of the United Nations, using more integrated and interconnected approaches. This includes evidence-based analysis, integrated planning and joint reporting; empowered leadership on the ground sustained by modern, efficient, joined up operations; increased synergies at the headquarters, regional and country levels; shared standards and criteria for partnership and new partnership instruments; and harnessing the power of the data revolution. The development system is also committed to doing its part to move towards more inclusive governance and more robust, coherent and innovative financing, in order to implement the 2030 Agenda.

6. To find further unity in its diversity, the United Nations development system needs to adjust its functions, funding, governance structures, organizational arrangements, capacity and partnership approaches — six fundamental areas — to ensure that the system can rise to the challenges of a new development era. As the world was still finalizing the contours of the new development agenda, the Economic and Social Council, in its resolution 2014/14, decided to convene a transparent and inclusive dialogue involving Member States and all relevant stakeholders on the longer-term positioning of the development system, taking into consideration the interlinkages among the six areas mentioned above. The dialogue spanned over 18 months, during which Member States discussed how the development system should avail itself of the opportunity of the new sustainable development agenda, helped by analytical papers and proposals from the United Nations Development Group, the Secretariat, independent experts and Member States, as well as from the independent team of advisers appointed by the Bureau of the Economic and Social Council.

7. The key messages that emerged over the course of the dialogue include the following:

- The changing and fast-evolving development context is rooted in growing complexity and interconnectedness and increased diversification of capacity of programme countries. The new and ambitious development agenda, the nature of global challenges and crises, and the emerging role and needs of middle-income countries, as well as the continuing priorities of those most in need, have notable implications for the United Nations development system.

- The United Nations development system is at a critical juncture. The new development landscape and the nature of the 2030 Agenda require significant strengthening of system-level capacity. The system needs to build on and scale up coordination and coherence towards a path of integrated thinking, planning and operating, to achieve collective outcomes. What will be required is a new

mindset and a change in the organizational culture, as well as a vision for change to equal the ambition and determination that led to the agreement of the 2030 Agenda.

- The new development paradigm requires clarity on what the United Nations development system should or should not do in given country contexts. This should be based on the functions that the system is best qualified to perform with respect to national needs, as well as to global challenges requiring collective action. These functions were identified as support for normative work; upstream policy support and data; convening, leveraging and advocating; thought-leadership; capacity development, technical assistance and direct programme support where relevant; and support to humanitarian and crisis operations.

- A new funding architecture is needed to support the United Nations development system in the delivery of its mandates. This will require enhancing the predictability and quality of resources, increasing non-earmarked core contributions, exploring outcome-level earmarking, strengthening system-wide funding and exploring innovative funding mechanisms.

- Governance structures within the United Nations development system, both vertical and horizontal, as well as at the country level, need adjusting so they can strategically guide the system, individually and across institutional boundaries, and ensure that the work of the system is fully aligned with national priorities.

- Organizational arrangements at the headquarters, regional and country levels need to be modified in order to better respond to countries' differentiated needs and to be better geared to deliver results effectively and efficiently. An ambitious vision should be established for rationalization of field presence and further harmonization and simplification of business practices.

- Investments in staff development and high-calibre staff with skill sets to effectively contribute to national development efforts will be needed to ensure that the United Nations development system has the right mix of capacities and skills, including leadership skills and high-quality policy and programme advice, and the ability to work with multiple stakeholders in multisectoral responses. System-wide guidelines for staffing, as well as increased common human resource planning among entities, could further strengthen the ability of the development system to work together at the country level.

- Partnerships are critical to realizing the promise of the 2030 Agenda, and they should complement the role of the United Nations development system in supporting the Agenda. They should primarily be driven by the specific needs of countries and augment existing national efforts.

- Bridging the divides and strengthening the synergies across the development, humanitarian and peacebuilding nexus are critical to realizing and sustaining peace and development gains, mindful of the distinct operational realities in each area of work. This should be done in a manner which respects and safeguards humanitarian action and the space for emergency humanitarian response.

- Finally, achieving interlinkages and alignment among all six of the areas identified in the dialogue will be key, and it will require governance, management and planning at the global, regional and country levels that ensure a high degree of accountability, transparency and responsiveness in the delivery of United Nations operational activities for development.

8. The independent team of advisers contributed to the debate with an analysis of the current state of play and proposals to tackle those challenges. Addressing the high-level political forum on sustainable development, the Secretary-General stated that the 2030 Agenda would require a stronger, better-integrated and more strategic United Nations development system, that the United Nations Development Group had been actively engaged in making that happen and that the international team of advisers had offered a vision of a stronger system "working as one". He added that Governments, local authorities, businesses and civil society, as well as the United Nations, must learn to think differently. He expressed his trust that all would benefit from the bold diagnostic work by the independent team of advisers and consider their wide range of proposals.

9. The proposals of the independent team of advisers included the adoption of a system-wide global strategic framework to align the United Nations development system with a common set of principles and objectives for the implementation of the 2030 Agenda; the establishment of a single Sustainable Development Board to guide the operational activities of the development system as a whole; and the redesignation of the Deputy Secretary-General as the "Deputy Secretary-General for Sustainable Development", responsible for the oversight and funding of the resident coordinator system. In addition, the independent team of advisers proposed to organize the development system around functional groupings, to align the funding of the development system with a consolidated budget, to review the development system field presence to ensure alignment with countries' needs and priorities, to establish a system-wide support mechanism for partnership to ensure a common approach to external players, and to adopt a common human resource policy to ensure an international civil service dedicated to "working as one".

10. A large number of Member States welcomed the diagnostic work of the independent team of advisers; however, there were divergent views on the team's far-reaching proposals. All the proposals are reflected in the summary of the second phase of the dialogue, issued by the Bureau of the Economic and Social Council.[2]

11. The present report draws on input not only from the independent team of advisers, but also from the United Nations Development Group, Member States and experts who engaged in the dialogue. It contains recommendations for consideration by Member States.

12. From the Economic and Social Council dialogue and the continuing work of the United Nations development system, it is evident that a comprehensive approach is necessary to ensure that the development system truly functions as one. The connection between the Sustainable Development Goals and their targets makes it even more pressing that the interlinkages and the alignment of the areas identified in the dialogue are coherent and mutually supportive, at the agency level and system-wide, as well as in relation to the pillars of the work of the United Nations.

[2] https://www.un.org/ecosoc/sites/www.un.org.ecosoc/files/files/en/qcpr/summary-of-second-phase-of-ecosoc-dialogue-2016.pdf.

13. Moving forward, change will be realized through a phased approach. Some areas can be tackled now, while others will require a longer-term horizon. The dialogue helped to distinguish issues that need attention in the short and medium term from those that will require more time. The new quadrennial comprehensive policy review offers a critical opportunity to address some of the issues in the next four years; to do so, it should be redesigned as the tool for strategically guiding, implementing and monitoring results and the critical changes needed to ensure that the United Nations development system can truly work as a system. And while guiding the development system in the initial years of implementation of the 2030 Agenda, the quadrennial comprehensive policy review can lay the foundations for fundamental changes in the medium and longer term.

14. The quadrennial comprehensive policy review is not a panacea to implement the global aspirations of the new development agenda. While it can improve the functioning of the United Nations development system as a whole in some areas, other aspects will need more work by the different entities, as well as by Member States. Evolving from coordination to integration is a shared responsibility of the United Nations system and Governments. The new quadrennial comprehensive policy review can prepare the groundwork and help maintain the momentum. The system has proved before that it is capable of ambitious change. Member States have proved their readiness to support these efforts.

II. Core functions of the United Nations development system in support of the delivery of the 2030 Agenda for Sustainable Development

15. The scope and nature of the 2030 Agenda require both integration and targeting of the functions of the United Nations development system. With an increasingly diversified development landscape and the varying levels and types of needs, capacities and priorities among countries and regions, it is clear that the development challenge cannot be tackled alone. The development system should not be involved in every aspect of the implementation of the 2030 Agenda. Instead, its core functions must be derived from the absolute, comparative and competitive advantages of the United Nations, as well as its primary purpose to deliver demand-driven results at the country level, firmly anchored in national leadership and ownership.

16. The role of the United Nations development system remains essential in providing normative policy support, delivering targeted and context-specific efforts and supporting capacity development with responses that are grounded in human-rights approaches, in order to leave no one behind. The development system is uniquely qualified to support Member States in the implementation of global agreements, norms and standards. The universal membership of the United Nations also gives the system an unrivalled ability to bring stakeholders together at the global, regional and country levels. Its legitimacy and impartiality put the system in a unique position to support development cooperation, including South-South and triangular cooperation. In addition, the work of the development system is geared towards capacity-building and technical assistance, and it can help strengthen and build synergies through development, humanitarian and peacebuilding interventions, in line with the 2030 Agenda and the resolutions on sustaining peace.

17. Countries with special challenges, such as conflict-affected countries, least developed countries, landlocked developing countries, small island developing States and countries adversely affected by disasters, will continue to require various forms of direct support and service delivery through integrated approaches, including in the development, humanitarian and peace sectors to build resilience and sustain and prevent the reversal of development gains. And in the new development arena, traditional models of assistance offering direct support for basic needs and services, where circumstances are amenable, will need to evolve towards upstream integrated policy support, sustained by efforts to improve the quality, quantity and disaggregation of data to guide policymaking, planning, implementation, monitoring and reporting.

18. To meet the Sustainable Development Goals, the regional dimension is pivotal. It provides an important feedback loop as an aggregator and bridge between processes and collective initiatives at global and national levels, both internally, within entities of the United Nations system, and externally, with other regional and subregional organizations and actors.

A. Have core functions of the United Nations development system in line with the 2030 Agenda for Sustainable Development

19. In essence, the core functions of the United Nations development system could be identified as:

- Providing integrated normative support for implementation, monitoring and reporting on global agreements, norms and standards
- Providing integrated, evidence-based policy advice and thought-leadership, to support countries in embedding the Sustainable Development Goals into national and local plans and budgets
- Developing capacity and providing technical assistance
- Convening stakeholders across constituencies, leveraging partnerships and facilitating knowledge-sharing and South-South and triangular cooperation
- Providing direct support and service delivery, particularly in countries in special situations, such as those affected by conflict, displacement and disasters
- Collecting and analysing comprehensive and disaggregated data to inform evidence-based, context-specific and inclusive policy choices

B. Tailor functions to meet different country needs

20. With the growing capacities of countries and the diversification of their needs and priorities, there is a need for a more precise agreement on what functions the United Nations development system is best qualified to perform in order to respond to national demands. Any problems that may arise cannot be resolved using universal development templates; the system needs to be as context-specific as possible, providing individual diagnoses and solutions. The different capacities and needs of countries require the development system to design individual, tailor-made approaches, reflecting the specific circumstances of every country. Least developed

countries, low-income countries and conflict- and disaster-affected countries must continue to be given priority. At the same time, the challenges of the increasing number of middle-income countries, with their high number of poor populations and large youth populations, where the impact of crises may in some cases be cross-border in nature, also call for targeted action.

C. Capture poverty in all its forms and dimensions

21. The complexity of the new development landscape and the interconnectedness of the new development agenda call for a comprehensive approach if the United Nations development system is to achieve its goal of leaving no one behind. Because traditional ways of measuring poverty and classifying countries are primarily based on per capita income, they do not reflect the different vulnerabilities, risks, volatility and mixed capacities within and between countries. As a result, some countries are impaired in terms of their access to official development assistance (ODA), concessional financing and preferential trading and the achievement of debt sustainability. Middle-income countries in particular are at risk of middle-income traps and the reversal of fragile development gains. Poverty must be captured and addressed in all its forms and dimensions according to national definitions. The development system should move beyond traditional country ranking, based on income alone, and should develop a new multidimensional way of assessing country needs on the basis of the Sustainable Development Goal targets and indicators, building on the experiences of those entities that have already moved in this direction.

D. Strengthen the regional dimension of the work of the United Nations development system

22. The interrelated nature of today's challenges also calls for greater emphasis on the regional aspects of the work of the United Nations development system. Strengthening the regional level, including links between the regional commissions and other United Nations entities present at the regional level, on the one hand, and between the United Nations development system and the non-United Nations regional and subregional organizations and actors, on the other, is critical to connecting and sustaining global and national efforts. While tailored to specific national and local conditions, national sustainable development strategies can benefit from regional peer learning and be mutually supportive among countries, and the full potential of South-South and triangular cooperation needs to be tapped within and among different regions. Options for strengthening regional and/or subregional platforms and mechanisms should be matched by exploring new ways to enable the provision of coherent, effective and efficient system-wide support, in particular in relation to trans-border, intraregional and cross-regional issues, and the provision of specialized support to country offices. The regional dimension must leverage the internal United Nations system-wide contribution, as well as collaboration with other regional and subregional intergovernmental organizations and non-governmental actors, such as civil society networks, academic institutions, foundations, think tanks and the private sector. In that regard, the role of the regional commissions is strategic, and there is a need to leverage their assets in the regions.

E. Clarify the role of the United Nations in developed countries

23. In addition to the interconnected nature of today's global challenges, the 2030 Agenda has also highlighted the universal scope of its Goals and targets. The commitment to transforming the world for the people, the planet, prosperity and peace applies to developing and developed countries alike. Achievements can be made and sustained only if developed countries take significant and appropriate action as well, whether on the policy, resource or technical front. The United Nations development system needs to consider and develop clear lines of action in developed countries, building on the experiences of specialized agencies, which by virtue of their mandates, operate on a universal agenda. Thus, there could be merit in carrying out a review of existing arrangements with developed countries, including by non-resident agencies.

F. Move towards a system-wide approach to South-South and triangular cooperation

24. As the United Nations development system embarks on the ambitious path set out by the 2030 Agenda, the strengths of all players must be leveraged. Today more countries have a dual role, as recipients and contributors, in global development. Leveraging the contribution of South-South and triangular cooperation is becoming increasingly important, and the development system must increase its efforts in this regard. Existing platforms and practices of the development system for South-South and triangular cooperation need to be reviewed to ensure coordination and some degree of consolidation, as well as a coherent system-wide approach. The wide range of expertise within the system should be brought together and integrated into joint work wherever relevant.

G. Promote and protect human rights so that no one is left behind

25. The 2030 Agenda is unequivocally anchored in human rights. It is about leaving no one behind, first reaching those furthest behind and addressing inequality and discrimination. The United Nations development system has to support Governments in promoting and protecting human rights for all, placing people at the centre of its development efforts and working for their empowerment as active agents of sustainable development. This will require the development system to develop capacities and provide integrated policy support and advice in making international human rights standards an integral part of sustainable development strategies and policies, in line with national obligations under international human rights law.

H. Achieve gender equality and empower all women and girls

26. While leveraging the strengths of all, it must be remembered that the achievement of the Sustainable Development Goals will not be possible without the full and equal participation, leadership and empowerment of women and girls. The United Nations development system must further strengthen the linkage between the normative and operational work in these areas. It must continue to invest in women

as agents of change, maintaining a strong focus on gender equality results and increasing investments in gender capacity and expertise of staff throughout the system. The use of accountability frameworks should be continued at the headquarters and country levels, through a new generation of the United Nations System-Wide Action Plan on Gender Equality and the Empowerment of Women that ensures stronger linkage between institutional performance and development results, in line with the Sustainable Development Goals.

III. Funding for the delivery of the 2030 Agenda for Sustainable Development

27. For the United Nations development system to be able to perform its functions, it must be supported by an adequate funding architecture. Existing funding practices, however, are characterized by a number of challenges and are not in line with the demands that the development system must respond to. The growing imbalance between core and non-core funding, together with the limited number of flexible, inter-agency pooled funding modalities, has introduced a higher degree of "bilateralization" in the funding of the development system. In some entities, this pattern keeps most funding outside of the direct purview of the governing bodies, thus following donor priorities that may differ from country needs. As a result, funding is increasingly driving functions. This trend must be reversed.

28. If the United Nations development system is going to operate more effectively and with greater impact, alignment between functions and funding is essential. It is the foundation of harmonious interlinkage with other critical variables, such as the governance, organizational arrangements, capacity and impact and partnership approaches of the development system. Reversing the current trend and ensuring that form follows function will require the scaling up of existing funding mechanisms that have shown promise and the exploration of new financing strategies, including ones that can leverage additional resources through innovative financing mechanisms.

29. The onset of the new development era provides an opportunity for the United Nations development system to adjust its funding models. To do so, it will be necessary to make the case for what, why and how contributors should provide funding at the entity level and system-wide. In the end, the performance of the development system will also depend on its ability to mobilize adequate and high-quality funding to perform its core functions and maintain its absolute and comparative advantages.

A. Scaling up core and "core-like" funding and achieving a more logical attribution of funds

30. The slow growth in real terms in core resources over the past 15 years, combined with most non-core resources being strictly earmarked to specific projects, as well as a high dependence on a small group of donors, makes the funding base of the United Nations development system highly susceptible to political and economic shifts in donor countries. This growing imbalance has been magnified by the lack of full cost recovery by many entities of the development system, proportionally from core and non-core funding sources. These and other

factors have led to the discussion of the "critical mass" of core resources needed by United Nations entities to deliver on their core functions.

31. Alignment of functions and funding does not happen in a vacuum; it results from the quality of substantive deliberations at the governance level. Structured financing dialogues can build strong ownership by Member States and other stakeholders of an entity's strategic intent and funding requirements and gaps. They build trust and improve incentives for donors to provide support in the form of core and "core-like" resources. In that regard, entities of the United Nations development system could strengthen their existing structured financing dialogues by building on the lessons learned from the dialogues undertaken by other entities in the system.

32. The cross-cutting nature of the 2030 Agenda makes it particularly important to complement core funding with more flexible and predictable earmarked funding. The United Nations development system has accrued a wealth of experience since the first United Nations inter-agency pooled fund was established over a decade ago. In the period 2013-2015, inter-agency pooled funds mobilized an average of some $1.8 billion per year, which represents 8-9 per cent of overall non-core resource flows to the development system. Pooled funding mechanisms have proved to be useful instruments for strengthening system-wide coherence and enhancing integration in the delivery of operational activities for development. At the same time, there is need to ensure that each fund can attract sufficient resources to bring about transformative change.

1. Establish clarity on core functions and their financing logic

33. In their strategic plans and integrated funding frameworks, entities of the United Nations development system need to make a clearer distinction between what are considered core activities and the type of funding used to finance these activities. In addition, the integrated ambition of the 2030 Agenda challenges the development system to move beyond a year-by-year, sector-by-sector, project-by-project approach to sustainable and predictable funding and towards a medium-term, more robust categorization approach that can best support the delivery of the Sustainable Development Goals.

2. Broaden the donor base and enhance the core resource base

34. The United Nations development system and its partners should explore innovative ways to broaden its donor base and provide incentives for existing donors to contribute more flexible, multi-year funding. This has added urgency in the context of the 2030 Agenda and will require the entities of the development system to work actively and transparently to build trust with Member States and other prospective partners and to make the case for adequate and predictable levels of core funding and complementary non-core resources. Entities of the development system could also consider implementing negotiated voluntary core pledges, or a voluntary indicative scale of contributions, to help enhance their core resource base.

3. Strengthen and institutionalize structured financing dialogues

35. The executive boards of the funds and programmes and the governing bodies of the specialized agencies in the United Nations system should, as appropriate, strengthen and institutionalize annual structured dialogues on how to finance the outcomes defined in the strategic planning cycle of their respective entities. The

financing dialogues should be part of a vision and strategy for multi-year resource mobilization that will leverage existing funding successes and reduce reliance on year-by-year and fragmented resource mobilization tactics. This would involve establishing clarity on the core functions of entities and their financing logic. They would reaffirm the underlying principles and definitions of the funding system and determine resource mobilization targets, including quality of funding, as well as the most appropriate mechanisms for delivery and, where relevant, proposals for burden-sharing among Member States. A review could be conducted to assess the extent to which the current format of existing financing dialogues has been successful in achieving these objectives, based on evidence in actual funding patterns, and the impact that the dialogues have had towards building trust among Member States and other stakeholders.

4. Develop pooled funding mechanisms that are well designed and sufficiently resourced to ensure coherence

36. The United Nations development system must increase its efforts to capitalize on the recognized comparative advantages of pooled funds, while addressing potential drawbacks such as the risk of increased transaction costs when funds are too small. Pooled funds should be well designed, in line with priorities defined at the global, regional and national levels and sufficiently funded. Such funding should complement, not replace, agency-specific funding. Donor countries, as well as others able to do so, should scale up their contributions to United Nations inter-agency pooled funds to promote integrated, cross-cutting United Nations initiatives and support efforts towards the achievement of collective outcomes in line with the Sustainable Development Goals in a coherent way through development, humanitarian, peacebuilding and other assistance, such as assistance in the area of climate adaptation. It is crucial for the development system to achieve an adequate level of pooled funding that is well designed and in line with priorities defined at the national and local levels, in order to incentivize the system to leverage more resources across entities.

5. Attribute an incremental cost to all strictly earmarked contributions

37. Differentiated or preferential cost recovery rates applied to thematic and other softly earmarked contributions should not lead to an increase in the amount of core resources spent on subsidizing non-programme costs of non-core activities.[3] Therefore, to encourage such flexible contributions, in addition to implementing full cost recovery, an incremental cost should be attributed to all strictly earmarked contributions to cover extra administrative costs associated with the handling and reporting of such contributions.

B. Exploring innovative financing modalities

38. The breadth and depth of the 2030 Agenda require the United Nations development system to explore options for more use of innovative financing sources aimed at increasing the impact of the limited funding it receives. The Leading

[3] Some United Nations entities apply a 1 per cent reduction to the normal cost recovery rate for thematic contributions.

Group on Innovative Financing for Development[4] defines innovative development finance as all mechanisms that raise funds for development that are complementary to ODA and predictable and stable in nature. Examples of innovative finance include leveraging larger private flows using limited public finance, thematic bonds that dedicate proceeds to specific development goals, and issuing new forms of taxes and levies to mobilize resources for development. The development system could build on lessons learned by several vertical funds that are currently using innovative mechanisms in an effort to enhance value for money. These include funds such as the Global Alliance for Vaccines and Immunization, the Global Fund to Fight AIDS, Tuberculosis and Malaria and the Adaptation Fund.

39. To help address the significant financing needs of the 2030 Agenda, the United Nations development system will also need to deepen partnerships and establish new arrangements with international financial institutions. Experience can be drawn from the Middle East and North Africa Region, where the United Nations development system is partnering with the World Bank Group and the Islamic Development Bank to strengthen coordination between development and humanitarian assistance and support middle-income countries with concessional financing for development projects addressing the impact of the influx of refugees.

1. Give priority to innovative financing approaches

40. The United Nations development system should engage in innovative financing approaches that support risk-sharing and the use of limited public resources to leverage larger private resources, including from domestic sources, while avoiding possible conflict of interest in relation to the normative role of United Nations entities. This is especially important in situations where resources are scarce and there are persistent inequalities and vulnerabilities. As a starting point, the financing section in the updated United Nations Development Assistance Framework (UNDAF) guidelines should be fully implemented. In this context, it will be important to assess the overall impact of the development system by being able to quantify the amount of private funds that the United Nations has leveraged.

2. Mitigate risks around innovative financing

41. While exploring inventive ways to secure funding, it will be important to mitigate risks. In this regard, the United Nations development system should establish a platform for sharing knowledge on innovative financing, in order to learn from experiences with innovative instruments. Additionally, a system-wide approach to partnership that builds on best practices and existing due diligence mechanisms and expands the reach of the development system while protecting the United Nations brand will help United Nations entities to engage in innovative ways to raise and mobilize funds while minimizing risk management costs. Rather than have multiple entities use financial and human resources to vet the same partners repeatedly, an established approach to partnership throughout the system, together with the necessary capacity to support it, would help ensure that the development system can be involved more easily in new ways of doing business and securing resources while preserving its values, integrity and independence and keeping transaction costs at a minimum. The benefits of a system-wide approach to partnership are discussed in more detail below.

[4] Sixty-three countries working in conjunction with international organizations and civil society.

3. Strengthen partnerships with international financial institutions

42. In an effort to leverage all players to achieve collective outcomes, including by raising additional financial resources, the United Nations development system should strengthen partnerships with international financial institutions. Partnerships with such institutions will also allow the development system to benefit from their strengths, in terms of the resources they hold and the expertise they have in working with non-grant financing instruments and the private sector.

C. Enhancing transparency and accountability of funding flows

43. Improving transparency and information flow on the sources, use and impact of both non-earmarked and earmarked funding is critical to enhancing resource mobilization at the entity level and system-wide. A culture of transparency can also foster better alignment between the preferences of contributors and the strategic intent and work priorities of entities. Capitalizing on new opportunities to mobilize flexible, predictable and stable funding would also put additional demands on the quality of data, analysis and reporting on financial flows. For example, it will be critically important to strengthen harmonized approaches towards reporting in the 2030 Agenda environment. From the perspective of contributors, traditional and non-traditional, this would provide a picture of how their contributions fit, not only in the context of activities by individual entities but also in relation to the Sustainable Development Goals and related targets.

44. The United Nations system data catalogue launched by the High-level Committee on Management in March 2016 is a positive step towards addressing the need for quality, accessible, timely and reliable disaggregated data. The data catalogue, which was designed in close collaboration with the International Aid Transparency Initiative secretariat, makes United Nations system data open and accessible to the public and other key stakeholders and improves the availability and accessibility of information, in order to better inform others about the system's analytical and decision-making processes.

1. Adhere to a common standard for reporting on contributions and expenditures

45. In order to increase the availability of current and forward-looking information that is outcome-specific for more detailed analysis and to improve support for future planning, all United Nations entities should publish timely, transparent, harmonized and open high-quality data on funding, including by adopting the International Aid Transparency Initiative standard for reporting data, sharing experiences and lessons learned from the strong performances of some funds and programmes in this area. In addition, United Nations entities that have not already done so should develop and improve publicly accessible online systems that map data on donor contributions and expenditure allocations.

2. Move towards an integrated financing approach at the country level

46. Efforts at the global level should be paired by efforts at the country level. United Nations country teams need to shift to an integrated financing approach that identifies all financial needs and the development, humanitarian and peace and security flows to match them, to be supported by the United Nations development system, in collaboration with other actors when needed. The integrated financing

approach would involve United Nations country teams identifying an appropriate mix of financial instruments that best complement and leverage other sources of development finance, including private, public, external and domestic resources that may not flow through the development system. United Nations country teams would then strive to nudge these resources towards national development priorities and the Sustainable Development Goals. This will require not only behavioural change but also the development of new staff skills and capacities, in areas such as how to develop partnerships, as well as a better grasp of innovative finance sources.

IV. System-wide transparency, accountability and governance

47. Just as optimizing funding practices will be vital for sustaining the United Nations development system in its functions, the roles of transparency and accountability cannot be underestimated. The importance of transparency and accountability has been gaining momentum in recent years, particularly as a result of the increasing complexity of the international aid architecture and the development of new technologies for capturing and providing access to information and data. The increasing involvement of new players in the development arena, which is likely to continue to grow in the coming years, further highlights the need to identify new forms and build on existing mechanisms for transparency and accountability. This is critical to building trust, but it is also fundamental to effective financial and programmatic management.

48. Individual entities have taken steps towards cultivating a culture of increased transparency and accountability with several robust measures. At the headquarters level, several entities have created web portals with up-to-date information showing how they manage their resource flows in programmes and who they engage with in the implementation of some activities. At the country level, the standard operating procedures, which have been implemented to varying degrees, constitute an accountability framework that responds to the horizontal accountability of the entities of the United Nations development system as part of United Nations country teams, complementing agency-specific vertical accountability lines. This includes country budget frameworks, the management and accountability system and annual reports on joint results. In addition, United Nations entities have improved their accountability and oversight by implementing the International Public Sector Accounting Standards and by presenting timely, comprehensive and forward-looking information based on the International Aid Transparency Initiative standard for reporting data. Despite these advances, more can and should be done.

49. A good governance architecture is required to ensure a culture of accountability and transparency. Strong governance mechanisms not only provide strategic guidance, exert oversight and ensure accountability, but also build trust between entities of the United Nations development system, Member States and other partners.

50. The current governance architecture of the United Nations development system is complex in its set-up, reach and capacity. Questions have been raised on whether it serves well the needs of a new development era. While answering such questions is the responsibility of Member States, there may be merit in exploring the governance architecture and its role in enabling the development system to respond to the demands of its beneficiaries.

51. The General Assembly, the Economic and Social Council, executive boards and governing bodies of United Nations entities, in accordance with their respective mandates, constitute a multi-tiered intergovernmental policymaking and oversight system. Central organs set system-wide principles, goals and standards to guide the mandates of individual entities of the United Nations development system. The Council currently performs this role through the operational activities segment of its substantive session. While these governing bodies set the course, they have limited capacity to ensure that the various entities act on system-wide policy coherence and coordination in programming and operations that the 2030 Agenda requires. The Assembly resolution on the quadrennial comprehensive policy review is currently the only instrument for system-wide governance of the development system. At times, these governing bodies lack the necessary information to step up their engagement, since the coverage and quality of system-wide statistics, analysis and reporting to allow a review of governance by these bodies are quite limited.

52. Governing bodies of entities of the United Nations development system provide strategic guidance in line with the individual entities' mandates and oversight on the entities' strategic plans, budgets, policies and overall delivery of results. The governing bodies allow for a high level of accountability and transparency in the entities' delivery of their objectives. However, they generally operate in isolation from each other; decisions and policies of entities in one area may not necessarily be known or valued by those operating in another. In this regard, system-wide accountability for results at the country level could be further strengthened.

53. These horizontal challenges, which hamper cross-fertilization and integrated action, may be further complicated by the fact that the governing bodies of entities vary in their composition, size, representational character, areas of focus, source of support and working methods. Some of them have embraced multi-stakeholder engagement, while others continue to be solely a national body. The ability of the governing bodies to provide strategic guidance on operational activities is also affected by variations in the frequency of their meetings. And while some governing bodies of individual entities may approve country programme documents, the reality is that programming is overseen primarily at the country level through various policy coordination mechanisms involving the respective Governments and the heads of United Nations entities. Few financial and human resources are allocated to support the work of these bodies, and secretariat support is often limited to just a few staff.

54. The 2030 Agenda requires more emphasis on collaborative intergovernmental guidance throughout the system, as well as forward-looking perspectives among Member States in decision-making. In that regard, the 2016 quadrennial comprehensive policy review, while remaining at a more strategic level, should address the whole system directly and ensure that horizontal gaps are addressed, without prejudice to the important role of the respective governing bodies.

55. It is time to improve the ability of the Member States to provide effective guidance, both horizontally and within specific entity mandates. This is essential for the implementation of the highly complex and integrated agenda and the transformation of the United Nations development system so that it operates as a system.

A. Review the composition and working methods of governing bodies

56. There is a generally shared view among Member States that the composition of the governing bodies would need to be reviewed to increase the ownership and participation of Member States and to reflect a better geographical balance and multi-stakeholder participation, giving due consideration to the principles of equity and effectiveness in representation. Their capacity and working methods should also be reviewed. This could start by building on the experiences of those entities that have already taken steps to reform their governance mechanisms and embraced diverse governance models. An assessment should be undertaken of how such changes may affect the participation of Member States and funding streams. Specialized agencies could carry out such a review if it is deemed appropriate and within their established authority.

B. Convene Economic and Social Council meetings dedicated to strengthening horizontal guidance

57. The gap in horizontal governance could be filled by convening Economic and Social Council meetings aimed at guiding the system-wide functions and operations through the review of system-wide progress on "Operating as one", evaluations and other instruments. At the same time, the operational activities for development segment of the sessions of the Council should also be redesigned to provide better strategic oversight of the implementation of the quadrennial comprehensive policy review. In line with the provisions of Article 62, paragraph 1, of the Charter of the United Nations, the Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health and related matters and may make recommendations with respect to any such matters to the General Assembly and to the specialized agencies concerned.

V. Improving the functioning of the United Nations development system

58. Just as the 2030 Agenda requires a shift in funding practices and governance architecture, it also represents a marked departure in the ways that the United Nations development system needs to conduct and deliver its business to achieve the Sustainable Development Goals. New organizational arrangements and business models are needed, guided by a new collective mindset.

59. This collective understanding must translate into differentiated models that respond to country needs and improved efficiencies through more collaborative arrangements, joined up operational capacities and assets that build on different entities' strengths and enhanced partnership approaches that support the system in leveraging the strengths of all those involved to deliver on its mandates. Changing ways of working requires a mixture of tweaks and transformations, in a carefully managed and sequenced process that maintains the integrity of results on the ground.

60. It all starts with the vision, skills and spirit of the United Nations development system workforce. Moving forward, it is imperative to ensure the right kind of people, competencies and incentives in the right places. The High-level Committee

on Management has taken steps to further strengthen the international civil service as an independent, neutral, highly skilled and engaged resource. Among the key expected outcomes of this endeavour are a strengthened transformative leadership and management culture and an organizational environment that recognizes good performance, strengthens links to career development and sanctions poor performance. In this connection, many entities are also striving to adjust their internal mobility policies, including through practical means such as bilateral or multilateral exchanges from job pools.

61. This collective vision must also rest in the recognition that the world is now very different and that the United Nations must open itself to the realities of the twenty-first century, embracing innovation and a broader range of actors in the field of development. This increasingly diverse range of players offers enormous potential to leverage the differences and comparative advantages of each. And while the risks are being managed by building and expanding on good practices, within the system embracing partnership will need to be the rule rather than the exception. This is not just a matter of benefit, but also a matter of relevance.

62. Improved functioning of the United Nations development system is also based on the recognition that today's challenges require a system that primarily relies on its ability to work across sectors. The development system is fully committed to adopting coherent and complementary approaches to development, humanitarian and peacebuilding action and supporting multi-stakeholder planning mechanisms that incorporate the contributions of a diverse set of actors, as well as a common narrative on planning, programming, structural/architectural changes and funding issues.

A. Presence

63. The configuration of country presence needs to be aligned with national needs and the demands of the 2030 Agenda and to ensure cost-effectiveness. Not all United Nations entities necessarily have a comparative advantage in each country setting. They should gradually move away from models based primarily on representation and towards models better geared to the specific contexts, capacities and needs of countries, advances in communication technologies and contemporary ways of working together. In many instances, for example, a country could be supported from a regional or subregional location or through a multi-country office arrangement, depending on the needs and priorities. Non-resident agencies have many experiences and lessons to share and can help pave the way ahead in this regard.

64. The regional level has an important role to play in supporting these efforts. The regional commissions and their subregional offices could be leveraged in this context. Since more coherence and coordination of efforts are needed between the regional offices of individual United Nations entities and the regional commissions, regional arrangements need to be brought in line with the demands of the 2030 Agenda.

1. Adopt flexible, cost-effective and highly collaborative business models and organizational arrangements at the regional, subregional, national and subnational levels

65. There is clear scope for synergy and greater impact through improved and consolidated field presence, while ensuring flexibility to allow for country-specific needs and circumstances. This will allow the United Nations development system to

move towards the modern and agile system that is needed to deliver on complex and interrelated priorities, to maximize resources while responding to needs at the regional, subregional, national and subnational levels.

2. Review the field architecture of the United Nations entities

66. In line with adopting a more collective, nimble and cost-effective presence on the ground, the field architecture of the United Nations development system needs to be reviewed, rationalized and aligned with the 2030 Agenda and demands from countries and regions. A system-wide mapping exercise should also be undertaken. There is a need to shift towards more differentiated country office models with tailored support in response to the capacities, needs and priorities of individual countries, as well as goals. Every entity would need to review its geographical coverage and working arrangements at the regional and country levels. Joint premises and offices with technical experts from different agencies physically sitting together working on similar thematic issues and/or target groups can encourage innovation, reduce overhead costs and avoid duplication of staff roles in United Nations entities. Governing boards, as appropriate, should look into this as a matter of priority and in the context of current and expected budgetary allocations. System-wide coordination and strategic discussions are needed to better match country needs with country presence.

3. Create harmonized definitions to enhance coherence

67. Harmonizing the different definitions and configurations of "regions" and "subregions" that currently exist in United Nations entities will facilitate a number of activities throughout the United Nations development system, in particular the monitoring, reporting, following up and reviewing of progress in the Sustainable Development Goals. While not underestimating the political complexities of such an endeavour, it is long overdue. In this regard, the Economic and Social Council could invite all governing bodies to engage in a joint discussion on this issue, as appropriate.

B. Workforce and capacity

68. The 2030 Agenda requires a shift in the vision, the skill sets and, in some cases, the balance of technical and managerial expertise of the United Nations development system in order for the system to deliver what is expected. The United Nations workforce will need not only the necessary capacities to face a much broader and more complex set of challenges, but also a clear and strong signal by the senior management of individual entities regarding the need to transcend agency-specific identity and allegiance.

1. Build transformative and empowered leadership

69. It is essential to develop transformative United Nations leaders at the global, regional and country levels who can deliver collective outcomes, who can work in relation to the United Nations pillars and with actors outside the United Nations and who can strongly advocate for United Nations principles, norms and standards. This requires leadership that is supported by strong knowledge and expertise, attuned to

country realities including in the fields of development, humanitarian, and peace and security.

2. Strengthen and reposition staff capacities at all levels

70. The staff required to deliver on the 2030 Agenda must shift from a set of skills of the type needed for the Millennium Development Goals to the type of expertise needed for the Sustainable Development Goals. At the country level in particular, a new balance needs to be struck between technical and management profiles, as well as specialization in relation to cross-sectoral integration. Staff development should be updated to ensure that capacities are upgraded in critical areas, ranging from technical skills in innovative financing and partnerships to skills related to communications, technologies needed for the kind of highly collaborative models of work and a much more externally oriented outlook required by the 2030 Agenda.

3. Facilitate and incentivize a mobile global workforce

71. Facilitating collaboration and staff movement as much as possible between different United Nations entities will enable and incentivize one United Nations mobile global workforce with a shared mindset that cuts across entities' individual flags and identities, supported by a human resource management system that rewards mobility, expedites recruitment and ensures flexibility for deployment of staff across entities. The approach of the High-level Committee on Management to move towards a global United Nations system workforce is intended to address this challenge. This is an important first step that will require the commitment of all entities of the United Nations system to be fully developed and put in place.

4. Advance gender balance throughout all United Nations ranks

72. An improved United Nations development system will also start with greater engagement of women throughout its ranks. Despite some advances in ensuring gender balance, progress has been slow and uneven and major gaps remain, particularly at senior decision-making levels. Moving forward, the transformative change envisaged in the 2030 Agenda will only be effectively supported by the development system if concrete action is taken at each level to ensure the effective selection, retention and promotion of women.

C. Partnership approaches

73. The 2030 Agenda recognizes partnership as a key means of implementation. A United Nations development system that can truly deliver must recognize and harness the potential of all actors, building on their capacity, reach and resources. There is an intrinsic need to engage in partnership, strategically, effectively and efficiently to respond to today's demands. The development system has made significant strides in building partnerships, and almost every entity has developed a mechanism for launching and nurturing such efforts. Yet partnership approaches throughout the system continue to present fundamental challenges. Primary among these is the lack of a clear definition of partnership. Different players have a different understanding of what is entailed and who is involved in a partnership with the United Nations. This lack of clarity extends to the role, practices and

responsibilities that the United Nations as a system is expected to take on for engagement with external players.

74. Notwithstanding the diverse forms that partnerships can take and the range of roles that the United Nations development system has in partnerships, the system should adopt a common set of standards. To date, however, no system-wide approach or mechanisms exist to ensure the necessary transparency and accountability of partnership efforts, and the capacity of the various entities to engage in partnership varies widely. External actors wishing to connect and support the work of the Organization often lack clarity on how to approach, enlist and work together with the United Nations; in some cases, external actors may view the existence of different practices in the system as an opportunity to promote their own interests.

75. Multiple calls by Member States for more clarity on the partnership activities of the United Nations development system are confronted with a capacity gap to assess existing efforts, system-wide needs and the scope and types of partnerships needed, to develop a commonly agreed set of principles and standards and to ensure appropriate oversight. At the same time, the United Nations should retain the flexibility necessary to be an attractive partner open to the realities of the twenty-first century and to be able to tailor partnerships to meet the needs at the global, regional and country levels.

1. Adopt a flexible system-wide approach to partnership

76. The United Nations development system should develop a system-wide approach to partnership that includes common principles, standards and guidelines to ensure that partnership policies and practices with all players are coherent and aligned with the values and purposes of the United Nations. Key elements of this approach would include having clearly defined parameters and criteria for multi-stakeholder partnerships and, especially in high-risk engagements, having clear and well-defined exit strategies in place for quick termination of any partnership that fails to deliver the intended results. These should build on existing and normative standards, principles and guidelines and practices that are already in use by various entities. Capacities for collecting and sharing knowledge on partnership efforts in the development system should be made available.

2. Ensure appropriate oversight, transparency and accountability of partnership efforts

77. Transparency, oversight, accountability and alignment with United Nations values, goals and mandates are critical and must be ensured in a system-wide approach to partnership, with strong ownership and leadership by Member States. Partnership approaches must be aligned with national policies and development strategies and create space for meaningful participation by all segments of society.

D. Strengthening coherence: the development, humanitarian and peacebuilding nexus

78. Sustainability of development efforts is strictly linked to building resilience, sustaining peace and reducing disaster risk, particularly in the most vulnerable country contexts, and vice versa. However, development, humanitarian and

peacebuilding efforts are often carried out in silos (i.e. in isolation). And while there have been efforts at cross-fertilization, given their interlinked nature a step change is needed. Many of today's crises and reversals of development gains are a result of the compounding effect of different vulnerabilities and root causes that could have been reduced or prevented if the development action had been more risk-informed or coherent.

79. Humanitarian and development capacities and expertise are needed to work towards collective outcomes. At the same time, the United Nations needs to retain emergency capacity to be prepared and flexible enough to respond to humanitarian crises. In such situations, addressing humanitarian needs through principled humanitarian action, including through humanitarian response plans, will continue to be necessary.

80. In protracted or recurrent crises, humanitarian action will need to move beyond repeatedly carrying out short-term interventions year after year and move towards contributing to longer-term development gains or, when there are operational constraints hindering their ability to do so in specific contexts, operating in synergy with other actors who ensure that the long-term development outcomes are achieved. Conversely, development actors will need to plan and act with greater urgency to help build national systems and capacities for prevention and preparedness, tackle people's vulnerability, inequality and risk as they pursue the Sustainable Development Goals, including in crisis settings wherever possible, by placing greater emphasis on early engagement and bold steps to reach those furthest behind.

81. For the system to move from delivering aid to ending need, it is essential to develop a new way of working together across institutional divides. This concept was recently embodied in a "commitment to action" entitled "Transcending humanitarian-development divides — changing people's lives: from delivering aid to ending need",[5] signed at the World Humanitarian Summit held in Istanbul, Turkey, on 23 and 24 May 2016. This new way of working will require focusing on collective outcomes, working over multi-year time frames, based on the specific comparative advantages of different actors within and beyond the United Nations system. It also offers opportunities to include peacebuilding where appropriate.

82. Shifting from delivering aid to ending need will be successful only if the structures, processes and financial systems of donors and entities of the United Nations development system reinforce this approach. This requires more flexible and context-specific approaches including joined up needs assessments and risk analyses, the formulation of collective outcomes that the United Nations system will advance through flexible and dynamic funding instruments and an empowered leader with the requisite capacity and profile.

1. Develop system-wide guidelines and a joint approach on the development, humanitarian and peacebuilding nexus

83. At the global level, guidelines on options for better joined up approaches to the analysis, planning and implementation of development, humanitarian and peacebuilding action should be developed.

[5] https://www.worldhumanitariansummit.org/key-documents

2. Move towards greater coherence at the country level

84. At the country level, an overall vision for collective outcomes should be developed, embodying the "one country, one United Nations framework" approach, when and where appropriate, ensuring complementary multi-year planning and encompassing development needs and protracted crises requirements, all based on joint analysis and comparative advantages. This approach should provide sufficient flexibility to allow for development, humanitarian and peace efforts to be carried out simultaneously, with due respect for the distinct principles that underpin each area and, where activities in the three fields are demand-driven, risk-informed, mutually reinforcing and reflected, as appropriate, in joined up planning frameworks. This approach will need to be developed in a manner that leaves room for separate, targeted and nimble humanitarian action and response plans, fully respecting humanitarian principles.

3. Ensure measures to safeguard and mutually reinforce development and humanitarian funding

85. Strengthening the links between the development, humanitarian and peace efforts should not result in the diversion of development resources to emergency priorities and vice versa. The new way of working is not about shifting funding from development to humanitarian programmes or from humanitarian to development entities but working collaboratively across institutional boundaries on the basis of comparative advantages.

4. Update the terminology

86. For the purposes of the quadrennial comprehensive policy review, key terminologies, together with new concepts, should be reviewed, as post-crisis "transitions" are not linear or binary processes with clearly identifiable phases. Rather, they refer to a broad and diverse set of circumstances and root causes, including but not limited to complex protracted crises, conflicts, disasters, human rights violations and political crises. Member States should consider changing references from "transition", to better recognize that short-term and long-term activities contributing to the implementation of Sustainable Development Goals and leaving no one behind happen in parallel rather than in sequence.

VI. Improving coherence, coordination and moving towards integrated action

87. Efforts have been made at the country level through the "Delivering as one" approach, the standard operating procedures and other measures to overcome the vertical nature of the system. This is a work in progress and it requires additional energy. Not all attempts to move towards improved coordination and integration to respond to national needs and priorities on the ground have been equally matched by efforts at headquarters. Much has been done at the global level on both the programmatic and management side, and some reform efforts have yet to yield benefits; however, more needs to be done to remove bottlenecks to "working as one". Globally, the system continues to struggle to integrate its ways of working in some areas. In addition, regional cooperation and collaboration across sectors, as

well as regional entities and mechanisms, require more work to improve coherence and strengthen the link between the national and global contexts.

88. Long-standing challenges concerning the need for increased coherence and integration, as well as the further requirements of the new development agenda in that regard, are recognized by Member States and the United Nations development system alike. The development system has started important groundwork to address some of these issues. A number of reform initiatives have been introduced in the past two years, and it will take more time before their full benefit and impact become visible and measurable. These changes are aligned with and support the global and national agendas for achieving the Sustainable Development Goals and are a vital contribution to the development system, enhancing its efforts. For example, United Nations country teams are already prototyping a new generation of UNDAF with multi-stakeholder engagement framed in a sustainable development context, better informed by joint data and analysis and leveraging the normative and operational strengths of the development system. However, more can be done and the development system has signalled that it embraces a vision for continuing change.

A. "Delivering as one" at the global, regional and country levels

89. Implementation of the "Delivering as one" approach and the standard operating procedures, though voluntary, has been a major step towards greater coherence and coordination. It is now time for mainstreaming all their components, including through the application of a business operations strategy that reflects the needs and realities of the various specific contexts.

90. There is a need for the "Delivering as one" initiative to embody the kind of integrated approaches in all phases of the work, from analysis and planning, through programming, budgeting, operations and reporting, to provide better support to Member States in the delivery of the 2030 Agenda.

91. At the regional level, priority should be placed on building on the agreed division of responsibilities between the regional commissions, the regional United Nations Development Group teams and the United Nations country teams with a view to maximizing synergies between regional and country-level efforts by the United Nations development system regarding the provision of support for implementation of the Sustainable Development Goals.

92. In most regions, coordination mechanisms are already in place and have delivered substantively on different global mandates, including the 2030 Agenda. Moving forward, to further strengthen system coherence, the two current regional coordination mechanisms — namely, the regional coordination mechanisms led by the regional commissions and the regional United Nations Development Group teams chaired by the United Nations Development Programme (UNDP) — could benefit from working closer together to develop consistent policy approaches and complementary capacity-building programmes in support of countries, building on the core functions and assets of each mechanism. While avoiding duplication, additional arrangements and/or instruments may be considered to strengthen the regional dimension both within the system and between the system and other regional actors.

93. At the global level, there is need for a change in the organizational culture to facilitate the coming together of a system that can deliver a unified agenda, and Governments must be the primary driving force to ensure that that change takes place.

1. Maximizing the "Delivering as one" approach

94. It is essential to ensure progress on "Delivering as one" as the platform for United Nations development system support at the country level, including through full implementation of the United Nations Development Group standard operating procedures and related tools, adapted to country contexts and organizational arrangements to ensure coherence, coordination and joint results.

95. At the same time, the system must also move towards "Delivering as one" in all countries, while following the principle of "no one size fits all". This does not imply full structural integration, but it will require greater integration of programme implementation and of operational resources and assets. The United Nations development system should be able to harness the comparative strengths and expertise of each entity, with some taking the lead and others contributing in kind.

96. A renewed approach to "Delivering as one", under the auspices of one leader and an empowered country team at the country level with the requisite authority, which integrates programmatic and operational functions, will help to maximize coherence, impact, effectiveness and efficiency. Efforts to maximize the "Delivering as one" approach should be aimed at having a coherent and increasingly transparent and data-driven system that is able to convene a broad set of stakeholders, as well as ensure closer integration and policy coherence, where appropriate, in relation to the three pillars of the Charter of the United Nations — development, human rights, and peace and security. It would leverage the United Nations system's diverse assets by integrating United Nations analytical and planning frameworks, budgeting, implementation, monitoring and evaluation of programmes, as well as reporting to Member States. It would also need to generate further efficiencies through scaled up implementation of common business operations strategies and integrated service centres for operational support.

2. The next generation of the United Nations Development Assistance Framework: the United Nations Sustainable Development Framework

97. A common vision and integrated planning framework for the United Nations pillars at the country level would require a newly updated generation of planning instruments. The next generation of UNDAF, which could be called the United Nations Sustainable Development Framework, would need to go beyond a mere compilation of agency-specific planning and would be based on the principle of moving towards a "one country, one United Nations framework" approach, built on shared strategic sustainable development outcomes, common needs and root-cause analysis, risk assessment and management, and monitoring and reporting regarding humanitarian, peacebuilding, human rights and development activities. The United Nations Sustainable Development Framework would be linked to a common budgetary framework and, where applicable, a joint resource mobilization strategy and would be endorsed and monitored at the country level by a national steering committee co-chaired by the Government and the resident coordinator, with the participation of United Nations country team members. This would be standard, without prejudice to agency-specific country programme documents and procedures.

Pooled funding instruments would be promoted. The United Nations Sustainable Development Framework would capture the core content and context of the 2030 Agenda and provide a system-wide overview of the key United Nations activities and system-wide functions in a given country, while being aligned with national planning cycles and national Sustainable Development Goal frameworks. The United Nations Sustainable Development Framework would build on the interim UNDAF guidelines, would be designed to promote a comprehensive, rights-based and inclusive country analysis, would focus the United Nations engagement on areas where it has the greatest impact and would be based on joint policy and programming approaches and harmonized business practices.

3. A different kind of regional support for the "Delivering as one" initiative

98. The "Delivering as one" initiative needs to be supported differently at the subregional and regional levels, with significantly strengthened coherence and coordination between United Nations regional entities and coordination mechanisms and stronger ties with regional and subregional intergovernmental organizations. The respective roles and the interface between the two current regional coordination mechanisms should be further clarified and reconsidered taking into account the Sustainable Development Goals. The 2016 statement of collaboration between the regional commissions, the regional United Nations Development Group teams and the resident coordinators and United Nations country teams in support of the implementation of the 2030 Agenda is a good first step that needs to be developed further with a view to having a clearer division of labour between the regional offices of United Nations entities and the regional commissions and ensuring greater coherence and coordination.

4. Align efforts at headquarters with efforts on the ground

99. Efforts at headquarters must match efforts on the ground. A more strategic and coherent results-oriented management culture is needed; system-wide leadership must be developed and institutional barriers to the success of field-level initiatives must be removed. To do so, the United Nations Development Group Plan of Action for Headquarters should be implemented in full and monitored regularly to ensure the advancement of structural reform measures required at the headquarters level to ensure coherence, effectiveness and accountability at all levels. The regional United Nations Development Group teams will need to play a key role in supporting United Nations country teams in the implementation of the "Delivering as one" initiative, including the full implementation and monitoring of the standard operating procedures and the business operations strategy; ensuring common business operations, services and operational efficiencies; and promoting the sharing of data and analytical products among regional United Nations Development Group teams and regional commissions.

5. Map the mandates of entities to bring them in line with the 2030 Agenda

100. A forward-looking mapping of mandates currently guiding the entities of the United Nations development system should be carried out to ensure that the activities of the system collectively support the priorities of the 2030 Agenda and remain relevant in the new development context. The mapping should be presented to the governing bodies of the various entities for their consideration and should be

discussed under the aegis of the strengthened Economic and Social Council to ensure a coherent and strategic alignment throughout the system.

B. Resident coordinator system

101. The General Assembly and the Economic and Social Council have stressed in numerous resolutions[6] that while UNDP manages the resident coordinator system, it is owned by the United Nations development system as a whole and that its functioning and funding should be participatory, collegial and mutually accountable within that system. In fact, the resident coordinator represents the entire United Nations system on the ground.

102. Since its establishment in 1977, the resident coordinator system has evolved. As all United Nations resident coordinators are also UNDP resident representatives, measures have been put in place to act as a functional firewall between the dual functions of the United Nations resident coordinator and UNDP resident representative. These measures include a management and accountability system, to ensure that resident coordinators act as impartial, transparent and inclusive leaders, and the establishment of the separate post of UNDP country director. However, feedback from some entities of the United Nations system suggests that challenges remain with the implementation of the functional firewall, as all resident coordinators, given their dual role as UNDP resident representatives, remain accountable for UNDP business.

103. At the same time, the resident coordinator is often left to his or her own means to deal with ownership and accountability in a resident coordinator system that continues to rest more with a single entity rather than with the United Nations development system collectively. In addition, if international humanitarian assistance is required, the resident coordinator is usually tasked with the humanitarian coordinator's functions, though these are supported by separate offices, funds, structures and governance arrangements.

104. The success of delivering coherent results at the country level largely depends on strong, coherent, effective and accountable leadership from the United Nations resident coordinator and the United Nations country team. However, the relationship between the resident coordinator and country team members is not based upon a binding and committed agreement. In particular, the resident coordinator has no formal authority over the members of the country team and no means to coordinate their programmes during the implementation phase. It should also be noted that mutual accountability between the country team and the resident coordinator is often not practised or fully implemented.

105. Finally, resident coordinators should be able to count on the stable and predictable resources needed to fulfil their mandate effectively. The United Nations Development Group has been implementing a system-wide cost-sharing arrangement since 2014; however, the costs of the system place heavy burdens on contributing entities and the system falls short of funding. The United Nations Development Group has commissioned a review of the cost-sharing agreement in the second half of 2016 to generate proposals on ways to further develop it to

[6] See, for example, Assembly resolution 67/226, para. 122.

address the effective needs of the system, in the context of supporting the implementation of the 2030 Agenda.

1. Take steps to strengthen the resident coordinator system and ensure impartiality and fairness

106. The United Nations development system should ensure full implementation of the management and accountability system, including by implementing all necessary measures for an effective functional firewall between the role of UNDP as manager of the resident coordinator system and the management and delivery of the UNDP programme. At a minimum, as stipulated in the management and accountability system, every resident coordinator/resident representative should sign a delegation-of-authority letter assigning to the second-ranked UNDP official authority for operational management of the UNDP country office the representation of UNDP within the United Nations country team and resource mobilization for the UNDP-specific country programme. All delegation-of-authority letters and relevant job descriptions should be made public on the United Nations country team websites, and resident coordinator performance assessments should be adjusted accordingly. In addition, the United Nations Development Group should establish an enhanced dispute resolution mechanism in order to enforce its guidance note on United Nations country team code of conduct and working arrangements, which covers resident coordinators and all senior leadership of United Nations country teams.

107. In working to ensure coherence and integration of the United Nations country team, resident coordinators should be accountable for the implementation of a joint resource mobilization strategy published against UNDAF, including inter-agency joint programmes and pooled funding mechanisms. Furthermore, every effort should be made to streamline the coherence and synergy of development and humanitarian coordination and action on the ground.

2. Ensure appropriate funding in support of the resident coordinator mandate

108. The system-wide cost-sharing arrangement that supports the resident coordinator system should be fully implemented. Relevant governing bodies of the entities that contribute to the funding of the resident coordinator system should ensure that resources are allocated in a timely manner and in full to allow the resident coordinator system to perform its functions. This is particularly important for the contributions from the regular budget of the United Nations. The forthcoming review of the cost-sharing agreement should present concrete options to improve this arrangement in order to meet the funding needs of the resident coordinator system.

3. Bestow appropriate authority on the resident coordinator

109. Merely calling for further empowerment of the United Nations resident coordinator is an insufficient measure to support integrated and coordinated approaches at the country level. Resident coordinators and United Nations country teams must have the authority to fully carry out their respective functions. For the resident coordinators, this should include being able to call on the best capacities in the system, to mobilize and distribute pooled funds, to make the final decision on strategic objectives in UNDAFs and to incentivize United Nations staff to contribute

to shared United Nations results. Resident coordinators and United Nations country teams should have an appropriately resourced country funding envelope to manage system-wide functions and contribute to the evaluation of the performance of representatives of entities, and United Nations country teams should be entitled to contribute to the assessment of the performance of the resident coordinator.

C. "Operating as one": business practices

110. A wide range of mechanisms and business practices have been introduced to move towards increased coherence in terms of functions, programming and shared results at the global, regional or country level, and these need to be further advanced.

111. At the same time, existing collaboration mechanisms can be improved further to move towards integration of functions, programming and shared results at the global, regional or country level and to enable the more outward-oriented approach required to deliver on the 2030 Agenda. In addition to a renewed governance structure, a new funding architecture and revamped organizational arrangements and capacity, as well as a new way of working in relation to the United Nations pillars and with development actors, the United Nations development system needs better integration of back-office functions.

112. In the 2012 quadrennial comprehensive policy review, the High-level Committee on Management and the United Nations Development Group were requested to present plans for the establishment of common support services at the headquarters, regional and country levels, based on a unified set of regulations and rules, policies and procedures, in the functional areas of finance, human resources management, procurement, information technology management and other administrative services. These plans were to be reviewed by the Economic and Social Council and approved by the governing boards of funds, programmes and specialized agencies by the end of 2014, for implementation by 2016.

113. Efforts to that end have been made through the standard operating procedures, which are mandatory for "Delivering as one" countries and voluntary for other countries, and the business operations strategy to improve the cost-effectiveness and quality of operational support processes. In addition, a number of tools and guidelines for integrated and joint operations have been developed by the High-level Committee on Management in the areas of procurement, human resources, financial management and information and communications technology, which have been implemented with success, primarily in the business operations strategy pilot countries. More effective communication and stronger managerial guidance from headquarters is essential to mainstream the integrated operational approaches that are already available.

114. Efforts are ongoing, but many country offices and operations management teams have reported that there continue to be barriers to modern, efficient and joined up operations in support of the functions of the United Nations development system. At present, commonality at the field level is very difficult to achieve. There continue to be limitations to "Operating as one," as each entity continues to maintain its own functions in areas such as finance and treasury, human resources, procurement, enterprise resource planning systems and administration. There is a

need for better coordination of the provision of common support services, as there continues to be significant potential for savings.

115. Harmonization of United Nations agency processes and systems remains an important instrument for avoiding duplication and reducing transaction costs. It has often been operationalized through minor policy adjustments, which have made it possible for different entities to "mutually recognize" good practices to accept each other's policies and procedures. Rapid access to services from whatever agency has the operational support needed or can deploy them quickly and effectively is particularly important in complex country settings. This approach has proved to be successful in many areas, such as the solutions of the High-level Committee on Management for joint procurement and common global and local banking. Implementation now needs to be scaled up to enable the United Nations development system to achieve operational savings at the global, regional and country levels, and the system would benefit from a mapping exercise to identify which operational areas should be considered at each level.

116. Several entities have established global service centres that have achieved economies of scale and reduced costs by removing the need for local transactions in many process areas. Entities that have established centralized service centres may make available to other entities upon request services that represent good practice.

117. There is a growing need to promote further integration of back-office operations of the United Nations development system, with a view to rolling out the operations in a phased approach that reflects lessons learned and is compatible with other efficiency measures. The High-level Committee on Management and the United Nations Development Group should collectively work towards building an open policy framework for future collaboration. The United Nations Development Group should request that all new guidance documents from headquarters are explicitly aligned with the respective entity's commitment to common business operations.

1. Implement and adapt the standard operating procedures in all countries

118. The standard operating procedures should be rolled out and implemented in all countries, while being adapted to individual country contexts and organizational arrangements. Agency programme and operational guidelines should be aligned with the standard operating procedures. Full implementation of the standard operating procedures across United Nations country teams requires alignment of agency programme and operational guidelines. In some cases, this needs the approval of the governing bodies of the various United Nations entities, and Member States should call for this throughout the United Nations development system. At the same time, the standard operating procedures should be further developed to match ways of working with the new requirements of the 2030 Agenda.

2. Roll out the business operations strategy for all

119. Equally, the business operations strategy should be rolled out to the United Nations country teams, with flexibility in agreeing on what services should be integrated after conducting a robust strategic planning and cost-benefit analysis. United Nations country teams should initiate the business operations strategy process in conjunction with the development of their country-level framework.

3. Scale up integrated service centres

120. The establishment of common business centres can enhance the efficiency and effectiveness of United Nations development system operations. The development system should consider increased use of such centres, adapted to the individual country context, using the lessons learned from different alternative approaches, based on evaluation. Examples include the integrated service centres for country-level joint operations in Brazil and Viet Nam and the integrated service centres for global service in Denmark, Hungary (United Nations Children's Fund) and Malaysia (UNDP).

4. Review rules, regulations and procedures to facilitate support for South-South and triangular cooperation

121. Challenges remain in the modus operandi of the system to facilitate South-South and triangular cooperation. While some entities have made exceptional provisions for the specific requirements of South-South and triangular cooperation, such as low transaction costs and speed of delivery, longer-term solutions are needed by reviewing procedures on specific modalities for supporting activities of South-South cooperation to ensure a systematic approach that meets the needs of such cooperation rather than relying on exceptional case-by-case procedures.

VII. A new kind of quadrennial comprehensive policy review

122. By adopting a universal, transformative and ambitious development agenda, Member States have raised the standards for the United Nations development system. The development system will have to transform itself, but this will require a phased approach. The level of changes that the nature and scope of the 2030 Agenda demand will inevitably need short- and medium-term steps to enable, and provide time for, important changes to be made in the longer run. The development system has already embarked on a number of initiatives to embed the 2030 Agenda in the ways the system works at the global, regional and country levels. Member States must now chart the course for the development system with a dynamic and strategic quadrennial comprehensive policy review. This is a first step in the longer-term positioning of the system.

123. The 2016 quadrennial comprehensive policy review offers an opportunity to address issues that will require attention in the short and medium term while simultaneously laying the foundation for areas that will require longer-term change. It is essential that the momentum of the bold and transformative steps taken in the adoption of the 2030 Agenda is reflected in the 2016 quadrennial comprehensive policy review and the opportunity to advance the initial phase of this approach is seized prior to the adoption by the General Assembly of the next resolution on the review, in 2020. This is particularly needed in the areas identified in the Economic and Social Council dialogue on the longer-term positioning of the United Nations development system, namely functions, funding, governance, organizational arrangements, partnership approaches, capacity and impact.

124. To set the strategic direction of operational activities for development in the very first years of implementation of the 2030 Agenda, it is vital that the next quadrennial comprehensive policy review provides the foundations for the United Nations development system to rise to the challenges of the new development

agenda, both at the entity level and system-wide. The opportunity to set the course for the next four years must not be missed.

125. A new kind of quadrennial comprehensive policy review would be one that provides strategic direction, focused on outcome rather than process, defining the role the United Nations development system can play in the realization of the 2030 Agenda. This would include funds, programmes and specialized agencies alike, for a truly system-wide strategic approach to monitoring and reporting. This may require consideration for making the quadrennial comprehensive policy review a system-wide tool that offers strategic guidance by Member States to the system, clarifying the vision ahead, through underlying principles around functions and division of labour on the basis of outcome-level results. The new quadrennial comprehensive policy review should clarify the systemic core functions of the development system and accountability mechanisms, identify ways to foster inter-agency collaboration in different contexts, including to overcome the development, humanitarian and peace and security divides to prevent shocks, build resilience and sustain gains in peace and development. It should set the stage for areas of reform that support key reform outcomes, including strengthening system-wide transparency and governance, enhancing coordination and collaboration across the system, creating efficiencies to maximize resources available for results, empower United Nations country teams to work together in a more coherent and integrated manner and enable the United Nations to respond to national needs and priorities while staying focused on mandates and comparative advantages. This should be done in a simple and focused manner, starting with its name. The new quadrennial comprehensive policy review could be renamed the "strategic policy review".

126. The 2016 quadrennial comprehensive policy review is the first step forward, and it should:

- Reflect the essence and spirit of the 2030 Agenda by strategically guiding the United Nations development system towards "Operating as one"
- Transform itself into a tool for strategic guidance across the United Nations development system
- Address the whole United Nations system, including the specialized agencies, without prejudice to the important role of the oversight bodies and their specialized mandates; members of governing boards should contribute to building the integrated system that they themselves requested when they adopted the resolution containing the 2030 Agenda (General Assembly resolution 70/1)

127. **First, the functions of the United Nations development system must be aligned with the 2030 Agenda, driven by the system's comparative advantages, and aimed at delivering demand-driven results at the country level that are tailored to national needs and anchored in national ownership.** Moving forward, the United Nations development system will need to focus on:

- Providing integrated normative support for implementation, monitoring and reporting on global agreements, norms and standards
- Delivering integrated, evidence-based policy advice and thought-leadership, to support countries in their efforts to embed the Sustainable Development Goals

into national and local plans and budgets and report on their national implementation

- Convening stakeholders across constituencies, facilitating knowledge-sharing, South-South and triangular cooperation, including regional cooperation, and leveraging partnerships to embrace the strengths of all development players
- Delivering capacity development assistance, including by improving the quantity and quality of comprehensive and disaggregated data
- Providing direct support and service delivery, particularly in least developed countries, countries in special situations such as landlocked developing countries, small island developing States and countries affected by conflict or at more risk to suffer the impact of climate change and disasters

128. **Second, the functions of the United Nations development system must be supported by appropriate funding flows and financing mechanisms.** The alignment of functions as the driver and funding as the enabler rests on the importance of funding practices geared towards the delivery of the 2030 Agenda. Funding should incentivize the entities of the United Nations development system to work together as a whole and ensure that the system can carry out its core activities most effectively. This will require:

- New ways of enhancing core resources with efforts by Member States and United Nations entities alike, including by building trust with partners and institutionalizing structured financing dialogues
- Complementing core funding with well-designed pooled funding mechanisms that can make earmarked funding more flexible and predictable; the United Nations development system must draw a clear distinction between core and non-core activities and incentivize higher-level earmarking to broad strategic outcome areas
- Deepening partnerships with international financial institutions
- Exploring the possibility of engaging more fully in innovative funding approaches that can mitigate risks and leverage larger private resources
- Capitalizing on the potential of the United Nations development system to mobilize resources as a system to finance core, system-wide functions
- Publishing timely, transparent, harmonized and open high-quality data on funding, including by adopting the International Aid Transparency Initiative standard for reporting data by all entities of the United Nations development system, sharing experiences and lessons learned from the strong performances of some funds and programmes in this area

129. **Third, the United Nations development system must be guided strategically through governance structures that allow the system to be accountable for system-wide results.** In order to ensure that the system is able to respond to the implementation of a highly complex and integrated agenda, it is critical to enhance horizontal governance while strengthening the capacity of governing bodies to provide strategic guidance and ensure accountability, both in the specialized mandates of each entity and across the intersectoral nature of the 2030 Agenda. This will require:

- Strengthening the role of principal organs through better use of existing mechanisms and platforms, including at the regional level, and considering new and/or improved institutional set-ups to strengthen governance, particularly horizontal governance, such as holding meetings under the purview of the Economic and Social Council to guide system-wide functions

- Revitalizing governing bodies with new ways of working, better geographical balance and multi-stakeholder participation to steer specialized activities towards multifaceted achievements and ensure space for the voices of all stakeholders

130. **Fourth, the ability of the United Nations development system to deliver results hinges on improving its functioning through strategic, effective and efficient presence on the ground, a workforce with the right skills and incentives, the capacity of strategic partnership to harness the strengths of all development players, and the ability to cut across the pillars of the work of the United Nations while leaving space for innovation.** To maximize capacity and impact, the United Nations development system should be organized in a manner that enables it to:

- Gear its presence at the country and regional levels to models that are flexible, that are configured to national needs and priorities, that take advantage of modern communication technologies and that are collaborative, both internally and with external partners

- Leverage the regional dimension, with a clear division of labour among relevant regional entities, to ensure coherence and coordination, in particular with regard to data, statistics and the follow-up and review of the 2030 Agenda, and ensure complementarities and synergies between the two regional coordination mechanisms

- Motivate and equip staff with updated skill sets, also enabling and inspiring them to transcend sectoral and institutional boundaries, guided by transformative and empowered leadership

- Readily and openly engage with external partners with a coherent system-wide approach and proper oversight across the system, building on best practices to truly open the United Nations to the twenty-first century

- Recognize that development, humanitarian and peacebuilding activities contribute to prosperous and peaceful societies in parallel rather than in sequence and that institutional divides must be overcome to realize the promise of the 2030 Agenda

131. **Fifth, efforts to improve coherence and coordination must be sustained and move towards integrated action to respond to the integrated, universal and yet targeted calls of the 2030 Agenda.** This includes building on the important efforts and innovative strides already taken by the United Nations development system and pushing onwards for a new generation of mechanisms, instruments and practices to operate as a system at the global, regional and country levels. Member States have an important responsibility in expecting and sustaining these efforts. These should include:

- The full implementation of the United Nations Development Group standard operating procedures for United Nations country teams, adapted to individual country contexts
- Maximization of "Delivering as one" as the platform for United Nations development system support at the country level
- A new generation of the country development framework, the United Nations Sustainable Development Framework, which can capture the core content and context of the 2030 Agenda and provide a strategic system-wide overview of United Nations activities and functions on the ground, in line with country needs
- A resident coordinator system with the authority, neutrality, experience and skill sets required to lead an empowered United Nations country team on the ground, as the cornerstone of the system's collective support for the 2030 Agenda
- The mainstreaming of integrated operational modalities, especially but not only at the country level, through common back offices, further harmonized business practices and the mutual recognition and adoption of best practices

132. **Finally, while the Sustainable Development Goals are interdependent, several priorities cut across the entire 2030 Agenda and the system-wide functions of the United Nations development system. These areas have been of significance in past triennial and quadrennial comprehensive policy reviews and will continue to be important.** In the short, medium and long run, these issues will continue to be key in meeting the demands of the 2030 Agenda. These include:

- Eradicating poverty in all its forms and manifestations. Poverty eradication remains the priority of the United Nations development system. The system must make every effort to leave no one behind, combating inequality and addressing the multifaceted challenges that lie at the heart of the scourge of poverty.
- Building and developing national capacities, both technical and functional. This incorporates supporting national statistical capacities to collect and analyse high-quality disaggregated data to be used to guide policymaking, planning, implementation, monitoring and reporting. It includes supporting and utilizing, wherever feasible, national financial systems, procurement systems and national evaluation capacities.
- Leveraging and facilitating South-South and triangular cooperation, particularly as demand for these services is expected to increase with the growing capacities of many developing countries and the nationalization of the Sustainable Development Goals.
- Achieving gender equality and empowering women and girls. This includes strengthening the normative and operative work of the United Nations development system in this area, maintaining a strong focus on gender equality results and increased investments in gender expertise across the system.
- Sustaining actions to strengthen the implementation of human rights principles and standards, upholding people's dignity and human rights while working for their empowerment as active partners for sustainable development.

133. While embarking on the fundamental changes that the 2030 Agenda requires for a United Nations development system that is "fit for purpose", bearing in mind

the importance of strategic monitoring and following up on the short-, medium- and longer-term objectives of the development system, it will be important to assess, adjust and recalibrate interventions. In doing so, care should be taken to focus not only on the short-term, easy-to-measure results, but also on longer-term achievements that are inherently more difficult to measure, such as in the areas of capacity development and institution-building. In this regard, the quadrennial comprehensive policy review should not only define the strategic direction of the development system, it should continue to facilitate an important mechanism for providing feedback to Member States on progress made in that direction. To achieve this, it will be necessary for the quadrennial comprehensive policy review to:

- Harmonize results-based management systems of the entities of the United Nations development system
- Strengthen system-wide evaluation
- Define clear mechanisms for monitoring and reporting on quadrennial comprehensive policy review progress, including a new, robust quadrennial comprehensive policy review monitoring framework closely aligned with the Sustainable Development Goals